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NOTICE

The Editor hopes to publish, in the month of November 1906, and in each subsequent November, a Supplement containing particulars of all decisions, &c., relating to Land Purchase, which have appeared since the date of the previous publication. The book will, in this way, be kept completely up to date. The Supplement will be published at a nominal price.

THE LAW RELATING TO
LAND PURCHASE IN IRELAND.

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THE LAW

RELATING TO

LAND PURCHASE IN IRELAND,

Land Laws & Decisions. 3

BEING THE

IRISH LAND ACTS, 1903 & 1904,

TOGETHER WITH

THE RULES AND FORMS RELATING TO LAND PURCHASE IN IRELAND.

EDITED, WITH AN INTRODUCTION, NOTES OF DECISIONS, AND APPENDICES OF TABLES, STATUTES, AND FORMS, BY

R. A. WALKER, LL.D.

SOLICITOR

EDITOR OF "THE RATING PROVISIONS OF THE LOCAL GOVERNMENT (IRELAND) ACT, 1898,"

ASSISTED BY

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PREFACE.

LIBRARY SETS

In the following pages an attempt has been made to collect together the information necessary for carrying out sales under the Irish Land Act, 1903. With this object in view, an Appendix of Statutes has been prepared, comprising the most important sections of all the Land Purchase Acts prior to the Act of 1903 and also containing sections of other Statutes which have constantly to be referred to in connection with Land Purchase. It is hoped that the result will be to place in the hands of the practitioner a volume in which he will find the greater part of the law upon the subject.

I have endeavoured, in dealing with this complicated matter, to express myself in as simple and untechnical language as possible, and so to produce a book which will be intelligible, not only to lawyers, but also to landlords, land-agents, and the numerous other persons who are so vitally concerned in the results of the recent legislation. With this aim before me I have entered into what, no doubt, will appear to many, unnecessary details, but I trust that those who are ignorant of legal principles will find these details of some assistance.

DEC 16 1940

The book was for the most part written in the years 1903 and 1904, and the printing was commenced in February 1905, but the publication of the work was held over in the hopes that the Land Commission Rules, which have been so long expected, would have been issued. These hopes were not fulfilled, and, as there appears to be no immediate prospect of the Rules being published, it has been thought better to print the Rules of March 1897, and to bring out the volume without further delay.

HARDING

Owing to these circumstances I feel that the book has many faults which I would wish were absent: the rules, which

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were intended to be printed in chronological order, have been disarranged, and many explanations and suggestions, which, although they might have been useful had publication taken place shortly after the passing of the Act, as was the original intention, are now, I am afraid, "stale, flat, and unprofitable."

I must here acknowledge the aid which I have received from Mr. Farran in the preparation of this volume. He read all my notes as they were written, checked all the references to Statutes and Cases, and on more than one occasion suggested alterations which have been adopted in the text. He also made for me *précis* of the law on sporting rights and turbary rights, which form the groundwork of my notes on those subjects. In addition to this, he has rendered me valuable assistance in searching the various reports for decisions, in compiling the appendices and index, and in passing the work through the press.

To Mr. J. M. Kennedy, Registrar of the Landed Estates Court, and to Mr. Henry C. Lynch, Examiner of Titles, Irish Land Commission, my thanks are also due for advice and assistance on many occasions freely given.

In conclusion, I wish to express my indebtedness to the Library of the Incorporated Law Society of Ireland, and to Mr. Samuel W. Evans, the Librarian, whose intimate acquaintance with the volumes under his charge has saved me many a tedious search.

86 Merrion Square, Dublin,
February 1906.

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Wilson's Est., 40 I. L. T. R. 13 . . . . . *Addenda*, 70

ADDENDA.

Page 5, after line 13, add—"In the *Estate of the Scottish Union and National Insurance Company* (39 I. L. T. R. 258; [1906], 1 I. R. 42) the Estates Commissioners declined to declare a property to be an 'estate' on the grounds that it was congested, that the holdings were uneconomic and held in rundale, and were not security for the proposed advance. The landlord and the tenants, who had entered into purchase agreements within the zones, challenged the decision of the Estates Commissioners, and contended that, having regard to Sec. 1 of the Act of 1903, they were bound to give the declaration. The question having been referred to MEREDITH, J., he decided that the declaration of the property to be an 'estate' is a condition precedent to the operation of Sec. 1 of the Act of 1903, and that no definitive step can be taken under that Act until the condition has been fulfilled. He held that in this particular case the Estates Commissioners were justified in the exercise of their discretion in refusing to give the declaration, but he pointed out that their discretion must in all cases be exercised on judicial grounds, not capriciously, but for substantial reasons."

Page 5, 13 lines from bottom, after "2 I. R. 321," add—"Since these notes were written, an appeal was taken by the vendor as regards Mary Walsh's case, and it was decided by the Court of Appeal (*Talbot Crosbie's Est.* [1905], 1 I. R. 570) that the date of the application for an advance is not the date of the execution of the purchase agreement, but the date of its lodgment in Court, and that accordingly, as the agreement was not lodged till the 26th July, the holding was then 'subject to a judicial rent fixed or agreed to since the passing of the Act of 1896,' and that the Estates Commissioners were bound to sanction the advance.

In *Coote* v. *Walsh* (39 I. L. T. R. 275; [1906], 1 I. R. 48) an originating notice to fix a fair rent was signed, and on the same day a consent fixing a fair rent was entered into between the landlord and the tenant. Subsequently, but also on the same day, a purchase agreement was signed by the tenant. On an application to make the consent a rule of court, MEREDITH, J., held that the application should be granted, but said that he thought it would be open to the Estates Commissioners when the matter came before them to consider whether the transaction was a real and *bonâ fide* one or not."

Page 9, 13 lines from bottom, add—"It has been decided by MEREDITH, J., in *Lawless' Est.* (39 I. L. T. R. 239), that, when an estate is sold to the Estates Commissioners under Sec. 7, the son of a Court tenant is the 'son of a tenant of a holding on the estate,' within the meaning of Sec. 2 (1) (*b*). He also stated in the same case that in the case of sales under Secs. 6 and 7, the selection of persons for the purchase of parcels is altogether within the discretion of the Estates Commissioners."

Page 11, 5 lines from bottom, after a real tenancy, add—"In *Rynd's Est.* (39 I. L. T. R. 70; [1905], 1 I. R. 363) the facts were as follows: a leasehold estate for sale in the Land Judges Court consisted for the most part of untenanted land. The solicitors having carriage divided this land into lots, and put up each lot for sale by auction outside Court. The conditions of sale provided that each purchaser should sign an agree-

ment to become a yearly tenant pending the matter, and a further agreement to purchase his plot under the Land Purchase Acts. The auction was held, and agreements to become tenants and to purchase signed in respect of each lot. On an application to accept the proposals the head landlord of the estate contended that there being no *bonâ fide* tenancies in existence, there was no power to redeem his rent. Ross, J., decided that, the proposed sale being the real object of the parties, the tenancies were fictitious, and that the contention of the owner of the rent was well founded. He accordingly refused to accept the proposals, but intimated that, if the lands had been held in fee simple, the matter could probably have been worked out."

In *Ellis' Est.* (39 I. L. T. R. 227) the tenant's interest in two judicial tenancies was, prior to 11th April 1904, vested in a trustee for the landlord, who was tenant for life of the lands. On that date the landlord and the trustee for a nominal consideration assigned this interest to a third party, who, on 25th April 1904, entered into agreements to purchase the holdings under the Act of 1903. The Estates Commissioners referred the two following questions to the Judicial Commissioner: (1) Whether the tenant's interest had merged in the landlord's interest, and (2) generally, whether the assignee of the tenant's interest was entitled to purchase. MEREDITH, J., held (1) that no merger had taken place, and, (2) that the assignee was entitled to purchase on proof being given that he was in occupation of the holdings as beneficial owner, and not as trustee for the landlord.

In *Guy* v. *O'Hagan* (5 N. I. J. R. 172) the plaintiff agreed to sell to the defendant certain lands in his, the plaintiff's, possession. There was an understanding between the parties that the greater portion of the money should be obtained as an advance from the Land Commission, and that the bonus on the sale should be made over to the purchaser; but it was subsequently found to be impracticable to carry out a sale through the Land Commission. On an action by the plaintiff for specific performance of the agreement by payment of the price in cash, PORTER, M. R., refused to decree specific performance, on the grounds that the defendant had been misled, and had not independent advice. He also held that if what the agreement contemplated had been carried out—namely, the creation of a sham tenancy, and the concealment from the Land Commission of the fact that the transaction was really a purchase—it would have been a great fraud on the public.

It was decided by MEREDITH, J., in *Wallace's Est.* (39 I. L. T. R. 262) that the first duty of the Estates Commissioners is to sell untenanted land to persons coming within Sec. 2. If they cannot find such persons, they have power, as trustees of the estate, to make lettings of the land, as distinct from lettings of the grass. The learned judge, however, declined to decide whether they could sell to the tenants thus created, until this question actually arose.

Every tenancy sold, and for which money is asked from the State, must be a real tenancy, and not conditional or for the purpose of getting money from the State. These are questions of fact which must be decided by the Estates Commissioners. *Nevin's Est.*, 40 I. L. T. R. 15.

Page 16, after line 12, add—"It was decided in *King Harman's Est.* (39 I. L. T. R. 219; [1905], 1 I. R. 448) that the Estates Commissioners have no jurisdiction to inquire into the equity of the price as between the landlord and the tenant unless there is fraud, duress, or other ground which would induce a Court of Equity to refuse to enforce the contract."

Page 22, after line 27, add—"In *Ely's Est.* ([1905], 1 I. R. 413), ROSS, J., decided that where a tenant for life presents a petition for sale in order to discharge incumbrances on the fee, and where the tenant for life and

the incumbrancers join in applying to have the petition dismissed, the application will be granted, notwithstanding the opposition of the remainderman."

Page 24, after line 21, add—"It has now been decided by the Court of Appeal in *Galway's Est.* (40 I. L. T. R. 2) that, when the Land Commission apply for particulars, it is the *primâ facie* duty of the Land Judge to furnish them, and that it is for the Land Commission and not for him to decide whether in a particular case it is expedient to advance public money for the purpose of a sale. The Land Judge is only concerned to see that the estate is sold to the best advantage. In this case a cash offer for the entire estate had been made before the Land Commission had issued their request for particulars, and the Court of Appeal appeared to think that in such cases the Land Judge, before acting on the request, should inform the Land Commission of the cash offer so as to enable them to determine whether they were likely to offer better terms than those already before the Court. The appeal was brought by the tenants from the order of ROSS, J., refusing to comply with the request, and the Court of Appeal held that, although the tenants had no *locus standi*, yet, having been noticed, and having appeared, they were entitled to their costs."

Page 24, after line 25, add—"It has been decided by MEREDITH, J., in *Lawless' Est.* (39 I. L. T. R. 239) that a Court tenant is entitled to purchase his holding on an estate sold to the Estates Commissioners under Sec. 7, and that the proviso in Sec. 7 (6), suspending the provisions of Sec. 40 of the Act of 1896, does not apply to that portion of Sec. 40 which declares that a Court tenant is to be deemed a tenant within the meaning of the Land Purchase Acts."

Page 25, after line 34, add—"The Land Commission may purchase wholly untenanted land under Sec. 7, and may declare it to be an estate for the purposes of the Act of 1903. *White's Est.*, 40 I. L. T. R. 6."

Page 28, after line 19, add—"It has been decided that the word 'land' in this section must be read according to the definition of 'lands' in Sec. 1 of the Act of 1860, and includes incorporeal hereditaments. The Court has therefore power to apportion and redeem a rent issuing out of certain lands and the tolls and customs of a fair. *O'Farrall's Est.*, 39 I. L. T. R. 89."

Page 30, after line 34, add—"It has been decided that the word 'land' in this section must be read according to the definition of 'lands' in Sec. 1 of the Act of 1860, and includes incorporeal hereditaments. The Court has therefore power to apportion and redeem a rent issuing out of certain lands and the tolls and customs of a fair. *O'Farrall's Est.*, 39 I. L. T. R. 89."

Page 31, 6 lines from bottom, after the words "*post*, p. 482," add—"It was decided by MEREDITH, J., in *Wallace's Est.* (39 I. L. T. R. 262), that the first duty of the Estates Commissioners is to sell untenanted lands to persons coming within Sec. 2. If they cannot find such persons, they have power, as trustees of the estate, to make lettings of the land as distinct from lettings of the grass. The learned judge, however, declined to decide whether they could sell to the tenants thus created, until this question actually arose."

Page 32, after line 30, add—"The Congested Districts Board cannot purchase an estate under Sec. 77, unless it is 'in the main agricultural or pastoral' within the meaning of Sec. 10; but where an estate in the Land Judges' Court was divided into lots, and the agricultural lots sold first to the Board, MEREDITH, J., held that the Board could purchase the remaining non-agricultural portion on the ground that the entire property formed an estate which was in the main agricultural. *Taffe's Est.*, 39 I. L. T. R. 214."

Page 33, 16 lines from bottom, after the words "by landlords to tenants," add—"But see now judgment of MEREDITH, J., in *Taffe's Est.*, 39 I. L. T. R. 214."

Page 33, 8 lines from bottom, after the words "3rd Edition, page 519," add —"It has been decided by MEREDITH, J., in *Walter's Est.* ([1906], 1 I. R. 17; 39 I. L. T. R. 265) that there is no power to advance money for the purchase of labourers' plots either to the District Council or to the labourer who holds at a weekly rent. If, however, the District Council is prepared to pay cash for the holding, it may be included in the estate and vested in the Council by vesting order."

Page 35, after line 9, add—"It has now been decided in *Wills Sandford's Est.* (39 I. L. T. R. 237; [1905], 1 I. R. 597), that advances or free grants may be made out of the reserve fund, not only in the case of sales to the Land Commission, but also in the case of direct sales. It has been also decided that such advances cannot (except in cases coming within Sec. 43 (3), which only applies to sales to the Land Commission) be made repayable by purchase annuities; but only by means of special agreements entered into between the Estates Commissioners and the purchasing tenants."

Page 42, after line 31, add—"It has been decided by MEREDITH, J., in *Stephen's Est.* (39 I. L. T. R. 107), that where lands sold under the Act of 1903 are subject to sporting rights, mineral rights, or water rights, which are not in the possession or enjoyment of the vendor at the time of sale, such rights will not be set out seriatim in the vesting order, but will be excepted by reference to the lease or grant by which they are reserved; also that, when so excepted, the right of entry necessary for the enjoyment of such rights is preserved. The form of vesting order applicable to such cases was settled by the Court."

Page 44, after line 18, add—"Stones lying on the surface are not minerals within the meaning of Sec. 5 of the Act of 1881, and accordingly a judicial tenant is entitled to remove and use such stones. *Meade* v. *Murphy*, 39 I. L. T. R. 60."

"Stone, gravel, sand, or clay are not excepted by Sec. 13 (3) from the operation of Sec. 99. *Stephen's Est.*, 39 I. L. T. R. 107."

Page 51, after the footnote, add—"It has been decided by MEREDITH, J., in *Stephen's Est.* (39 I. L. T. R. 107), that where lands sold under the Act of 1903 are subject to sporting rights, mineral rights, or water rights, which are not in the possession or enjoyment of the vendor at the time of sale, such rights will not be set out seriatim in the vesting order, but will be excepted by reference to the lease or grant by which they are reserved; also, that, when so excepted, the right of entry necessary for the enjoyment of such rights is preserved. The form of vesting order applicable to such cases was settled by the Court."

Page 52, after line 23, add—"In *Lucan and Bingham's Est.* (39 I. L.T. R. 232) it was decided that a maintenance charge under the Drainage Maintenance Act, 1866, payable by half-yearly instalments expiring on a fixed date, is a 'maintenance charge under the Public Works Acts.'"

Page 52, after line 25, add—"In *Pim's Est.* (39 I. L. T. R. 47) the tenant purchaser held under a fee-farm grant, and certain tithe rent-charges which affected the lands sold were in consequence payable by him, MEREDITH, J., held that these rent-charges being 'interests of persons having claims upon the interest of the tenant on the land purchased,' the proceeds of the sale should be distributed without redeeming or providing for the redemption price of the same."

Page 57, after line 15, add—"In *Babington's Est.* (39 I. L. T. R. 224) the Examiner having raised a query that the vendor had not obtained an order of the Court under Sec. 7 of the Settled Land Act, 1884, MEREDITH, J.,

held that the words of the settlement gave a power of sale, and that no application was necessary."

Page 59, 8 lines from bottom, after words "I am disposed to agree," add—"It has, however, now been decided by MEREDITH, J., in *Massereene and Ferrard's Est.* (40 I. L. T. R. 16), that every sale under the Act of 1903 by a tenant for life is a sale under the Settled Land Acts. He accordingly held that the successor in title of the original vendor (who was tenant for life) was entitled to carry on the proceedings in his own name."

Page 62, 3 lines from bottom, after "to be lodged in Court," add — "In *Bennett's Est.* (39 I. L. T. R. 229) an application was made to appoint two persons to exercise the powers of a tenant for life on behalf of an infant with a view to carrying out a sale under the Act of 1903. The infant was owner in fee farm, but his mother was entitled during his minority to receive the rents and apply same for the benefit of her children. The tenants had made a proposal to purchase at a good price. BARTON, J., granted the application, but directed the purchase money to be lodged in Court."

Page 63, after line 30, add—"In *Pim's Est.* (39 I. L. T. R. 47) lands were devised to A for life with remainder to B absolutely if living at A's death, but if B should predecease A and leave issue, then to trustees for sale. A was living at the time of the sale. MEREDITH, J., held that the trustees of the will were not trustees within the meaning of Sec. 16 (2) of the Settled Land Act, 1890."

Page 70, after line 4, add—"In *Tottenham's Est.* (39 I. L. T. R. 264) the Land Commission made a proposal to purchase on 26th March. The owner accepted the proposal on 30th March, and on 22nd April tenants to the extent of more than three-fourths in number and rateable value undertook to purchase. On April 29th these undertakings were lodged with the Land Commission, and on May 20th the Land Commission agreed to purchase the estate. It was contended by the owner that the Land Commission were bound to pay interest under Sec. 18 (2) from 22nd April, whilst the Land Commission asserted that they were only liable to interest from 20th May. MEREDITH, J., held that the Land Commission should pay interest from 26th April, being one month after the date of the proposal to purchase—a month being the time fixed by the rules and specified in the proposal as the period within which the proposal was to be finally accepted."

Page 70, after line 28, add—"In *Wilson's Est.* (40 I. L. T. R. 13) the purchase agreements were signed by the tenants in June 1905 and by the landlord in July 1905, but by arrangement between the parties were dated 1st May 1905, the understanding being that interest at 3¼ per cent. was to be paid to the Land Commission from 1st May 1905. The Estates Commissioners having raised a question as to what was the true date of the agreements, and, consequently, the date from which interest was to be collected by the Land Commission under Sec. 35 (2) of the Act of 1896, MEREDITH, J., decided, under all the circumstances of the case, the 1st of May 1905 must be taken to be the true date of the agreements."

Page 79, after line 9, add—"The solicitor for every intending vendor should remember that agreements for sale can be specifically enforced, and he should therefore, before allowing his client to enter into such agreements, satisfy himself that his title is satisfactory. In *Beamish's Est.* (39 I. L. T. R. 161) the vendor entered into agreements for sale of certain lands, and advances to the tenants were subsequently sanctioned. It was afterwards ascertained that his title to portion of the lands was defective, and upon the application of the vendor the agreements in respect of this portion were dismissed. The vendor on the same day applied that the agreements entered into in respect of the rest of the estate should also be dismissed, on the ground that,

as he was unable to sell his entire estate, he should not be compelled to dispose of part. The application was refused, and no appeal was taken from the order. The vendor subsequently completed the sale of the rest of the estate, with the exception of one townland. During two years which elapsed after the date of the application, the vendor neglected to lodge his title to this townland, although repeatedly asked to do so. On an application by the tenants of this townland, the Court decreed specific performance of the agreements for sale. See, however, *Talbot Crosbie's Est.* ([1905], 1 I. R. 570), where doubts were expressed as to whether the form of purchase agreement prescribed by the Rules does, in fact, constitute a binding agreement. See, also, new directions as to bringing in a complete abstract of title in the first instance, *post*, p. 558.

Page 82, 6 lines from bottom—after the words "a higher rate of interest," add—"It has been decided by MEREDITH, J., in *Blake's Est.* (39 I. L. T. R. 45), that where the Congested Districts Board purchase an estate under Sec. 79, the provisions of Secs. 24 and 25 relative to payment of interest apply, and accordingly that the Land Commission are bound under Sec. 24 (2) to pay interest to the vendor at 3½ per cent. until the purchase money has been distributed."

Page 83, after line 25, add—"It has been decided by MEREDITH, J., in *Blake's Est.* (39 I. L. T. R. 45), that Sec. 24 (3) is not applicable in the case of estates purchased by the Congested Districts Board under Sec. 79."

Page 85, 12 lines from bottom, after the words "Appendix B, *post*, p. 220," add—"It was decided by the Court of Appeal in *Talbot Crosbie's Est.* ([1905], 1 I. R. 570) that sec. 22 of the Act of 1885, which confers a right of appeal, is not repealed by Sec. 24 (12) of the Act of 1903, save so far as it relates to proceedings under the said Sec. 24."

Page 88, 12 lines from bottom, immediately before "General Finance," add—"Where a tenant is of unsound mind, the Judicial Commissioner will appoint a guardian to sign the purchase agreement and carry out the purchase. *Pounden's Est.*, 39 I. L. T. R. 96."

Page 98, 7 lines from bottom, after the words "where the matter is fully discussed," add—"Where one of the terms of sale entered into between a vendor and a tenant purchaser was that a Board of Works charge, affecting the tenant's interest only, should be redeemed out of the purchase money, MEREDITH, J., held that the bonus was only payable on the purchase money after deducting the redemption value of the charge. *Ryan's Est.*, 39 I. L. T. R. 220."

Page 99, after line 9, add—"Where portion of lands subject to mortgages is sold under the Act of 1903, and the purchase money is insufficient to pay the mortgages, but the Court is satisfied that the entire lands subject to the mortgages leave the vendor a substantial margin of solvency, the estate is not 'an estate so incumbered that the vendor is not entitled to receive for his own use any part of the rents and profits thereof,' and accordingly the bonus is payable. *Warburton's Est.*, 39 I. L. T. R. 200."

Page 110, 9 lines from bottom, after "Consolidated Stock," add—"The various clauses of Sec. 51 were very closely examined by the Court of Appeal in the case of *The Public Trustee* v. *Blacker-Douglas* ([1905], 1 I. R. 532), when the following propositions were laid down:—

1. Sub-sec. (1) clause (*a*) authorises an investment in Kingstown Township 3½ per cent. stock, which the Court held to be covered by the word 'mortgage.' This stock, as HOLMES, L. J., pointed out, possesses all the essential characteristics of a mortgage. 'It is charged on the rates; it is redeemable; and if default is made, the lender can, through a receiver, go into receipt of the income of the township on which it is charged.'

2. The word 'railway' in clause (*f*) must be construed to mean

a railway belonging to a company created and incorporated under the law of the United Kingdom, but, so long as this condition is fulfilled, the geographical position of the railway is immaterial. FITZGIBBON, L. J., however, intimated that, owing to the duty cast upon the Public Trustee by the proviso to clause (*f*) he would be wise to 'follow the safer course of confining his approval of investments to railways in the United Kingdom.'

3. That the words 'fully paid shares or stocks' in clause (*f*) extend to ordinary paid-up shares as well as to debenture and preferred stock. FITZGIBBON, L. J., dissented, and held that ordinary shares were not included. All the members of the Court considered that the effect of the proviso to clause (*f*) would be to greatly curtail the power of investment conferred by the clause, and that the Public Trustee would find it difficult to say that any ordinary stock of a railway company would be likely on the death of the tenant for life to realise the sum paid for it.

4. That the word 'secured' in the proviso to clause (*f*) does not mean that the Public Trustee is to ask for some security, by means of an insurance or otherwise, collateral to the investments purchased. It simply means that the Public Trustee must satisfy himself that the proposed investment is a safe investment for the money—that is to say, an investment into which a certain sum of money can be put with a reasonable prospect that the same sum can be got out again by realisation at the end of the time for which the investment is likely to continue."

Page 113, 12 lines from bottom, after "Sec. 51, *ante*, p. 105," add,—"Where application is made to the Land Commission to appoint settled Land Act trustees for the purpose of carrying out a sale under the Land Purchase Acts, the appointment will be limited to the purposes of such sale. *Carysfort's Est.*, 39 I. L. T. R. 57. In *M'Causland's Est.* (39 I. L. T. R. 226) a testator left his lands to his son subject to a charge of £2000 in favour of his daughter for life, with remainder to her issue; but if she died without issue the charge to merge in the inheritance. He appointed executors, but no trustees of his will. MEREDITH, J., held that he had power to appoint trustees of the will for the purpose of receiving payment of the charge. In *Reid's Est.* (39 I. L. T. R. 236) the facts were as follows: a testator devised certain lands to the vendor with remainder to his first and other sons in tail male, with power to the vendor to charge the lands with a jointure and with portions for younger children. The testator appointed executors but no trustees of his will. The vendor subsequently exercised the power of charging the lands by his marriage settlement, and the lands were afterwards sold under the Land Purchase Acts. MEREDITH, J., appointed trustees of the will for the purpose of the Settled Land Acts, and decided that they could give a valid discharge for the purchase money."

Page 132, after line 7, add—"In *Keating's Est.* (39 I. L. T. R. 235) the facts were as follows: certain lands sold under the Land Purchase Acts were subject with other lands to a Crown rent. It appeared that the Crown rent had for more than twenty years been paid by O, who had long since ceased to hold any part of the lands subject to the Crown rent. *Held* that O could not be assumed to have paid the Crown rent in respect of any lands except those sold, and accordingly that an order could not be made under Sec. 61 (2) exclusively charging the Crown rent upon other lands in the possession of O. *Held* also that the doctrine of a lost grant could not be applied. *Murphy's Est.* (not reported) considered and followed."

Page 134, after line 22, add—"but it has now been decided that Sub-sec. (4) does, in fact, enable higher superior interests to be dealt with. *Doran's Est.* (39 I. L. T. R. 230)."

Page 135, after line 6, add—"In the *Marquess of Waterford's Est.* (5 N. I. J. R. 144) the lands sold when purchased by the vendor were subject with other

lands to an impropriate tithe rent-charge, but since the year 1873 no tithe rent-charge had been paid by the vendor out of the estate. MEREDITH, J., declined to make an order under Sec. 62 of the Act of 1903, but disallowed the charge as against the proceeds of the sale."

Page 135, after line 13, add—"In *Pim's Est.* (39 I. L. T. R. 47) the tenant purchaser held under a fee-farm grant, and certain tithe rent-charges which affected the lands sold were, in consequence, payable by him. MEREDITH, J., held that these rent-charges being 'interests of persons having claims upon the interest of the tenant on the land purchased,' the proceeds of the sale should be distributed without redeeming or providing for the redemption price of the same.

In *O'Keefe's Est.* (39 I. L. T. R. 83) the lands sold under the Act of 1903 (lot 3) were, in common with two other denominations (lots 1 and 2), subject to a rent of £46, 3s. 1d. Lot 1 was bound to indemnify lots 2 and 3 against the entire of the rent. Lot 1 was let to two second-term tenants at rents amounting to £139, out of which there was payable a tithe of £16, 1s. 2d. and a Board of Works charge of £9, 0s. 6d., leaving a net second term rental of £113, 18s. 4d. to meet the rent of £46, 3s. 1d. The vendor applied to have the purchase money of lot 3 distributed without regard to the rent, under Sec. 62 (1) of the Act of 1903, but the owner of lot 2 objected on the grounds that the contingent liability of lot 2 would be thereby increased. MEREDITH, J., made an order under Sec. 62 (3) exclusively charging the entire rent on lot 1.

In *Doran's Est.* (39 I. L. T. R. 230) the lands sold were subject to a rent of £45, 12s., a lay tithe of £4, 12s. 9d., and an ecclesiastical tithe of £6, 19s. 2d., but were indemnified therefrom by lands containing 208 acres, 0 roods, 14 perches, the Poor Law valuation of which was £114, 3s. An application was made to exclusively charge the rent and tithes upon the indemnifying lands, but the application was opposed by the owner of the rent. No evidence as to the value of the lands was given except the Poor Law valuation. MEREDITH, J., refused the application, and gave the owner of the rent her costs; but he intimated that if a valuation of the lands by a competent valuer were produced, he would reconsider the case. The application was renewed, supported by an affidavit from a valuer who valued the indemnifying lands at £174, 7s. 6d., and an order exclusively charging the rent and tithes thereon was made, but the owner of the rent was again given her costs."

Page 136, after line 19, add—"It has been decided that the word 'land' in this section must be read according to the definition of 'lands' in Sec. 1 of the Act of 1860, and includes incorporeal hereditaments. The Court has therefore power to apportion and redeem a rent issuing out of certain lands and the tolls and customs of a fair. *O'Farrall's Est.*, 39 I. L. T. R. 89."

Page 139, after line 28, add—"It sometimes happens that the lands for sale are subject to a Maintenance Drainage Rate which fluctuates each year and which cannot be redeemed. This rate, which is often payable by the vendor, will, after the sale, fall upon the tenant purchasers. The vendor should, in such cases, have the Rate apportioned by the Drainage Board amongst the tenants, and should make an allowance out of the purchase money to each tenant proportionate to the amount of the rate which he will have to bear. The purchase agreements should state the portion of the rate which it is proposed to throw upon each purchaser."

Page 141, after line 22, add—"In *St. George's Est.* (5 N. I. J. R. 105) MEREDITH, J., held that the fact that a rent is settled in trust does not enable the Court to fix a higher price than it would fix if the owner of the rent were absolutely entitled. In this case a fee-farm rent of £340 issuing out of lands, the rental of which was £529, was redeemed at £8000, being about 23½ years' purchase, whilst a superior rent of £55, 7s. 8d.

was redeemed at £1470, or practically 26½ years' purchase. In *The Scottish Equitable Assurance Society's Est.* (5 N. I. J. R. 141) the Society purchased an estate in the Land Judges Court for £5740. Subsequently, the Society obtained fines from persons who were admitted as tenants, amounting to £1830. The estate was then sold under the Land Purchase Acts for £10,232. The rental at the time of the latter sale was £480, 12s. 3d. On a motion to fix the redemption price of a fee-farm rent of £225, 13s. 10d. payable out of the estate, MEREDITH, J., held that he must consider the amount of the fines in fixing the redemption price and ordered the rent to be redeemed at £5870, or practically 26 years' purchase."

Page 141, 20 lines from bottom, after the words "the element of compulsion," add—"In *Ogilby's Est.* (5 N. I. J. R. 210) an order was made by ROSS, J., fixing the redemption price of an annuity of £300 payable to a lady aged 52 at £4350, but, it appearing that the order was made upon an incorrect statement of the facts, ROSS, J., upon a subsequent application, and by virtue of Sec. 39 of the Landed Estates Court Act, increased the redemption price to £4550."

Page 144, after line 21, add—"It has been decided that the word 'land' in this section must be read according to the definition of 'lands' in Sec. 1 of the Act of 1860, and includes incorporeal hereditaments. The Court has therefore power to apportion and redeem a rent issuing out of certain lands and the tolls and customs of a fair. *O'Farrall's Est.*, 39 I. L. T. R. 89."

Page 145, 14 lines from bottom, after words "See Section 63, *ante*, p. 137," add—"It has been decided by MEREDITH, J., in *Dunne's Est.* (39 I. L. T. R. 260) that where a vendor, who is tenant for life, is entitled to be paid out of the purchase money sums advanced by him for estate duty, he is not entitled to interest thereon between the date when he paid the duty and the allocation of the fund, as he had during that period been in receipt of the rents and profits of the estate."

Page 151, after line 8, add—"The Congested Districts Board cannot purchase an estate under this section unless it is 'in the main agricultural or pastoral' within the meaning of Sec. 10; but where an estate in the Land Judges Court was divided into lots, and the agricultural lots sold first to the Board, MEREDITH, J., held that the Board could purchase the remaining non-agricultural portion on the grounds that the entire property formed an estate which was in the main agricultural.—*Taffe's Est.*, 39 I. L. T. R. 214."

Page 151, 9 lines from bottom, add—"In preparing agreements for the purchase of estates by the Congested Districts Board under this section, the Estates Commissioners must provide for payment of interest on the purchase money until distributed by the Board at 3½ per cent., as the Estates Commissioners are liable under Sec. 24 (2) to pay interest at that rate to the vendor. The Congested Districts Board is, however, entitled to take credit as against the 3½ per cent. for the interest produced by the investments representing the purchase money.—*Blake's Est.*, 39 I. L. T. R. 45."

Page 161, after line 22, add—"In the *Estate of the Scottish Union and National Insurance Company* (39 I. L. T. R. 258; [1906], 1 I. R. 42) the Estates Commissioners declined to declare a property to be an 'estate' on the grounds that it was congested, that the holdings were uneconomic and held in rundale, and were not security for the proposed advances. The landlord and the tenants, who had entered into purchase agreements within the zones, challenged the decision of the Estates Commissioners, and contended that, having regard to Sec. 1 of the Act of 1903, they were bound to give the declaration. The question having been referred to MEREDITH, J., he decided that the declaration of the property to be an 'estate' is a condition precedent to the operation of Sec. 1 of the Act of 1903, and that no definitive step can be taken

under that Act until the condition has been fulfilled. He held that in this particular case the Estates Commissioners were justified in the exercise of their discretion in refusing to give the declaration, but he pointed out that their discretion must in all cases be exercised on judicial grounds, not capriciously, but for substantial reasons."

Page 162, 12 lines from bottom, after "*Macnaghten's Est.*, 38 I. L. T. R. 222," add —"It has been decided by MEREDITH, J., in *Stephen's Est.* (39 I. L. T. R. 107) that where lands sold under the Act of 1903 are subject to sporting rights, mineral rights, or water rights, which are not in the possession or enjoyment of the vendor at the time of sale, such rights will not be set out *seriatim* in the vesting order, but will be excepted by reference to the lease or grant by which they are reserved; also, that, when so excepted, the right of entry necessary for the enjoyment of such rights is preserved. The form of vesting order applicable to such cases was settled by the Court. It was also decided in the same case that stone, gravel, sand, or clay are not excepted by Sec. 13 (3) from the operation of Sec. 99."

Page 226, as a footnote to clause 7 of the preliminary agreement to purchase, insert—"The solicitor for every intending vendor should remember that agreements for sale can be specifically enforced, and he should therefore, before allowing his client to enter into such agreements, satisfy himself that his title is satisfactory. In *Beamish's Est.* (39 I. L. T. R. 161) the vendor entered into agreements for sale of certain lands, and advances to the tenants were subsequently sanctioned. It was afterwards ascertained that his title to portion of the lands was defective, and, upon the application of the vendor, the agreements in respect of this portion were dismissed. The vendor on the same day applied that the agreements entered into in respect of the rest of the estate should also be dismissed, on the ground that, as he was unable to sell his entire estate, he should not be compelled to dispose of part. The application was refused, and no appeal was taken from the order. The vendor subsequently completed the sale of the rest of the estate, with the exception of one townland. During two years which elapsed after the date of the application, the vendor neglected to lodge his title to this townland, although repeatedly asked to do so. On an application by the tenants of this townland, the Court decreed specific performance of the agreements for sale. See, however, *Talbot Crosbie's Est.* [1905], 1 I. R. 570, where doubts were expressed as to whether the form of purchase agreement prescribed by the Rules does, in fact, constitute a binding agreement. See, also, new Directions as to bringing in a complete abstract of title in the first instance, *post*, p. 55."

NOTE AS TO ABBREVIATIONS USED.

"The Act of 1860" means the Landlord and Tenant (Ireland) Act, 1860 (23 & 24 Vict. c. 154).

"The Act of 1870" means the Landlord and Tenant (Ireland) Act, 1870 (33 & 34 Vict. c. 46).

"The Act of 1881" means the Land Law (Ireland) Act, 1881 (44 & 45 Vict. c. 49).

"The Act of 1885" means the Purchase of Land (Ireland) Act, 1885 (48 & 49 Vict. c. 73).

"The Act of 1887" means the Land Law (Ireland) Act, 1887 (50 & 51 Vict. c. 33).

"The Act of 1891" means the Purchase of Land (Ireland) Act, 1891 (54 & 55 Vict. c. 48).

"The Act of 1896" means the Land Law (Ireland) Act, 1896 (59 & 60 Vict. c. 47).

"The Act of 1903" means the Irish Land Act, 1903 (3 Edward VII. c. 37).

"The Act of 1904" means the Irish Land Act, 1904 (4 Edward VII. c. 34).

IN THE SIDE-NOTES AND INDEX.

"L. C." means Land Commission.

"L. J." means Land Judge.

"L. E. Court" means Landed Estates Court.

"L. C. C. Acts" means Lands Clauses Consolidation Acts.

"S. L. A., 1882," means Settled Land Act, 1882.

"C. D. Board" means Congested Districts Board.

"L. P. Acts" means Land Purchase Acts.

"S. L. Acts" means Settled Land Acts.

"M. W. P. A., 1870," means Married Women's Property Act, 1870.

INTRODUCTION.

General Principles of Land Purchase.

THOSE who are familiar with the principles of Land Purchase in Ireland need not trouble themselves to read this introduction, for they will find nothing here set down with which they are not already well acquainted. It has, however, been the aim of the writer to produce a book which will be intelligible to persons who have no previous knowledge of the subject treated of, and it seems to him that if such persons will, in the first place, make themselves conversant with the general principles of the Land Purchase Acts, they will then be able to understand the more readily the complicated provisions of the Irish Land Act of 1903. It is therefore proposed to explain briefly the principles upon which a sale under that Act is conducted.

The parties to a sale under the Act are three in number—namely, the landlord, the tenant, and the Government. The landlord and tenant must, in the first instance, agree on the price which the former is willing to take and the latter to give. The price having been fixed, application is made to the Government to lend the amount, and, if the case is a proper one for an advance, the Government lend the money to the tenant to buy his holding. The loan is secured by what is practically a first mortgage of the tenant's holding with a provision for re-payment of the debt by instalments. The interest which the tenant is called on to pay is only $2\frac{3}{4}$ per cent., but he has, in addition, to pay back every year a portion of the principal. This adds another half per cent. to the annual payment, making it altogether equivalent to $3\frac{1}{4}$ per cent. on the purchase money.* The tenant continues to pay this $3\frac{1}{4}$ per cent. for $68\frac{1}{2}$ years, at the end of which time the instalments of principal and interest thereon have accumulated to a sum equal to the original loan. The tenant does not himself touch any part of the money, which is placed by the Government to the landlord's credit in the Bank of Ireland, and, as soon as he has shown title thereto, is paid out to him by the Accountant of the Court.

* Sect. 45, Act 1903, *post* p. 94.

Calculating the Result of a Sale.

When a landlord has made up his mind to sell, he should, before approaching the tenants, calculate very carefully the result of the sale, so as to ascertain what are the lowest terms upon which he can part with his property without loss to himself.

The price which a tenant can be expected to give will depend upon the nature of the tenancy under which he holds, and the rental must therefore be examined and the tenants divided into groups. The first great division will be between, on the one hand, judicial tenants, or tenants who have had their rents fixed in Court, and, on the other hand, non-judicial tenants. The first group will, in turn, be divided into two smaller classes according to the dates upon which the rents were fixed. In the first class will be placed all tenants who have had their rents fixed prior to the 15th August 1896; in the second, all tenants who have had their rents fixed subsequently to that date. The first class will consist altogether of what are called "first-term tenants," or tenants who have only had their rents fixed once. The second class will comprise tenants who have had their rents fixed twice, and who are called second-term tenants, also tenants who have had their rents fixed for the first time since the 15th of August 1896. It has been the almost universal rule that tenants who have had their rents fixed twice, have had them twice reduced, whilst tenants who have had their rents fixed for the first time in recent years have obtained much heavier reductions than those who applied to the Court at an earlier period. It will accordingly be found that first-term tenants pay considerably higher rents than those coming within the second class, and they cannot therefore be expected to give as great a number of years' purchase as the latter. The second group, consisting of non-judicial tenants, will not as a rule require to be subdivided; but it sometimes happens that a non-judicial tenant holding under a long lease, or fee-farm grant, has a considerable interest in his holding, and pays a rent which does not represent the letting value. Such a tenant should be put into a separate class from the ordinary year-to-year tenants.

Having divided the rental into groups, the landlord must next estimate the price which each group can be expected to give. In dealing with the judicial tenants, he must bear in mind what are known as the "zones."

The "Zones."

In order to understand what the "zones" mean, a little preliminary explanation is necessary. None of the Land Purchase Acts prior to the Act of 1903 contained any reference to the prices to be given for holdings. This was a matter which was left entirely to the landlord and tenant, subject to the two following qualifications:—

(1) That the price should not be a greater sum than the holding afforded security for;

(2) That the price should not be so small as to cause injustice to the mortgagees, remaindermen, and other persons interested in the property.

The Act of 1903 indicates for the first time the limits within which the price ought to be fixed, and provides that, where these limits are not transgressed, no inquiries as to the security for the advance are to be made, nor are the mortgagees, remaindermen, and other persons interested to be consulted. A price which falls within the limits prescribed by the Act is said to be a price "within the zones." In order to bring a first-term tenant "within the zones" he must give a price which, on the one hand, does not exceed (roughly) 24½ years' purchase, and, on the other hand, is not less than (roughly) 18½ years' purchase. In the case of second-term tenants, or tenants who have had their rents fixed since 15th August 1896, the limits of price are (roughly) 27⅔ years' purchase and 21½ years' purchase respectively.* The principle of the zones does not apply to non-judicial tenants, and such tenants have, as a rule, given in or about the same price as first-term tenants, or, perhaps, a little less. Where, however, a non-judicial tenant holds for a long term and has a substantial interest in his holding, he may fairly be expected to give a price as good, or better, than the second-term tenants.

Redemption of Charges.

When a property is sold under the Land Purchase Acts, all charges of every kind which affect the property must be bought up or redeemed, and the landlord must therefore calculate the sum which will be required to redeem all these charges. The charges which will usually be found on Irish estates are the following:—

(1) Quit and Crown rents. Redemption price, 25 years' purchase.†

* Sect. 1 (1), Act 1903, *post* p. 1.
† See notes to Sect. 64, Act 1903, *post* p. 139.

(2) Tithe rent-charges payable to the Irish Land Commission and variable under the Tithe Rent-charge (Ireland) Act, 1900. Redemption price, 22½ years' purchase.*

(3) Tithe rent-charges payable to the Irish Land Commission, and *not* variable under the Tithe Rent-charge (Ireland) Act, 1900. The price of such tithe rent-charges can apparently be fixed by the Court, and if they are well secured, the redemption price would probably be in or about 23 years' purchase.*

(4) Instalments in lieu of tithes. The redemption price depends upon the number of instalments which have still to be paid, and can be ascertained by application to the Land Commission.*

(5) Land Improvement charges and drainage charges. The redemption price is fixed by a scale contained in the Acts under which the charges are raised, and can be ascertained by application to the Board of Works.*

(6) Lay impropriate tithe rent-charges. The redemption price is fixed by the Court, and if the tithe is well secured would probably be fixed at about 23 years' purchase.*

(7) Head rents and rent-charges. The redemption price is fixed by the Court. A well-secured head rent may be redeemed at as much as 27 years' purchase, while one not so well secured would be redeemed at a smaller price.*

(8) Jointures, annuities, and other terminable charges. The redemption price is fixed by the Court, which takes into consideration the security for the annuity, the age of the life for which it is payable, and all other material circumstances.* An *approximate* estimate of the value of a well-secured annuity can be formed by ascertaining the price which an insurance company would charge for a similar annuity.

(9) All mortgages and charges must be paid off together with all arrears of interest thereon.

In addition to redeeming the charges on the estate, the landlord will also have to pay his agent's fees for negotiating the sale, and his solicitor's fees for carrying it out. Five per cent. on the gross purchase money generally covers the agent's fee and the solicitor's costs, but sometimes, where the estate is a small one with a great number of holdings, or where the title is complicated, the 5 per cent. is not sufficient.

The "Bonus."

In addition to the purchase money which the landlord receives from the tenants, he gets a free gift from the Government of 12 per

* See notes to Sect. 64, Act 1903, *post* p. 139.

cent. on the gross purchase money.* This percentage, which is intended to induce landlords to sell, is known as the "bonus." In connection with the subject of the bonus, it is necessary to explain that owners of estates may be either "absolute owners" or "limited owners." An absolute owner is a person absolutely entitled; a limited owner is a person entitled for life, or in tail, or for some other limited estate. Both absolute and limited owners have power to sell under the Land Purchase Acts, but, when a limited owner sells, the purchase money is paid to the trustees of the settlement under which his limited estate arises, and that limited estate attaches to the purchase money in like manner as it had previously attached to the land. The bonus is not, however, paid to the trustees, but is handed over to the limited owner whose absolute property it thereupon becomes; but there is an exception to this rule where the vendor's estate is so encumbered that he is not entitled to receive for his own use any part of the rents and profits thereof. In such a case the bonus is added to the purchase money and is not paid to the vendor.*

It will perhaps be convenient to give here an illustration of a calculation showing the result of a sale.

Illustration showing Result of Sale.

Suppose the intending vendor to be tenant for life of an estate producing a rental of £1000 a year. The estate is held in fee farm, subject to a rent of £100. It is also subject to an ecclesiastical tithe of £5 a year, a lay tithe of £3, and a quit rent of £1. There is a mortgage for £1000 on the property bearing 4 per cent. interest, and a family charge of £3000 bearing interest at 4½ per cent.

Prior to the sale the vendor's income is as follows :—

Gross rental				£1000	0	0
Deduct head rent	£100	0	0			
Ecclesiastical tithe	5	0	0			
Lay tithe	3	0	0			
Quit rent	1	0	0			
Interest on mortgage	40	0	0			
Interest on family charge . . .	135	0	0			
Agent's fees, law costs, and estate expenses, say, 10 per cent. . . .	100	0	0			
				384	0	0
Net Income				£616	0	0

* Sect. 48, Act 1903, *post* p. 97.

Let us suppose that the rental consists of the following :—

First-term tenants				£200	0	0
Second-term tenants				500	0	0
Yearly tenants				200	0	0
Tenant holding under a long lease and having a substantial interest				100	0	0
Total . . .				£1000	0	0
Assuming that the first-term tenants give 21 years' purchase, their total purchase money will come to .				£4,200	0	0
If the second-term tenants give 24 years' purchase, their total purchase money will come to				12,000	0	0
If the yearly tenants give 20 years' purchase, their purchase money will come to				4,000	0	0
Whilst the long leaseholder's rent at 25 years' purchase will produce				2,500	0	0
Gross purchase money . .				£22,700	0	0
Deduct redemption price of head rent of £100, at, say, 26 years' purchase .	£2600	0	0			
Deduct head landlord's costs in connection with the redemption, which must be borne by estate, say . . .	50	0	0			
Deduct redemption price of ecclesiastical tithe at 22½ years' purchase . .	112	10	0			
Deduct redemption price of lay tithe at, say, 23 years' purchase . . .	69	0	0			
Deduct costs of tithe owner in connection with the redemption, which must be borne by the estate, say . . .	15	0	0			
Deduct redemption price of quit rent .	25	0	0			
Deduct amount due on mortgage . .	1000	0	0			
Deduct amount due on family charge .	3000	0	0			
Deduct costs of sale at, say, 5 per cent. .	1135	0	0			
				8,006	10	0
Net purchase money . . .				£14,693	10	0
The net purchase money will be handed over to the trustees of the settlement, and must be invested by them in trustee securities at, say, 3½ per cent. This will produce the annual sum of				£514	5	0
The vendor will also receive the bonus of 12 per cent. on the gross purchase money, amounting to £2724. This need not be invested in trustee securities, so that it may be estimated to produce, say, 4 per cent., which would bring in the annual sum of .				108	19	0
Income after sale . .				£623	4	0

So that the result of a sale on the above terms would be to slightly increase the vendor's income.

As against this, the vendor is likely to be at an annual loss while the proceedings for sale are going on. From the date that the tenants sign their agreements to purchase until the purchase money is distributed, the vendor receives interest on the purchase money in lieu of rent, and this interest is usually calculated at 3½ per cent. Interest on £22,700 at 3½ per cent. will only produce £794, 10s. 0d., as against the rental of £1000, whilst all the outgoings (with the exception of the £100 a year for agent's fees, &c.) will have to be paid until the time when the purchase money is distributed and the various charges paid off. This would mean an annual loss of £105, 10s. 0d. pending the completion of the sale. At the time of writing (December 1904) difficulties have arisen about raising the large sums required for the promotion of land purchase, and it seems possible that the purchase money may not be forthcoming for two or three years after the proceedings for sale are commenced. This would mean a considerable loss to selling landlords, and, where an estate is heavily encumbered with charges bearing 4½ or 5 per cent. interest, the loss would indeed be a serious one.

Before entering into negotiations with the tenants, the intending vendor will do well to have his title to the estate examined, as it sometimes happens that his interest in the property is not what he supposed it to be, or the estate may perhaps be subject to contingent liabilities of which the owner was unaware.

Preliminary Agreements.

When the landlord has satisfied himself about his title and has come to terms with his tenants, it will be advisable for him to get them to sign a preliminary agreement to purchase, a precedent for which will be found in Appendix C, *post* p. 224. If it is intended that the vendor's solicitor shall be remunerated by a commission on the purchase money, an agreement to that effect should be entered into. A form of agreement will be found in Appendix C, *post* p. 226. An agreement on somewhat similar lines fixing the amount of the agent's fee should also be executed.

Two Methods of Sale.

Sales under the Act of 1903 can be carried out in either of two ways—First, by selling the entire estate to the Land Commission for a lump sum; or, second, by selling each individual holding to the tenant thereof.

The second method is that which is usually adopted, and it is only proposed to deal with that method here. Assuming, then, that the sale is to be carried out in that way, the procedure is as follows :—

Procedure on Sale.

"The Originating Application."

The vendor's solicitor prepares what is called an "Originating Application" in the form prescribed by Rule 1 of the Rules of 23rd October 1903.* This document sets out shortly the nature of the vendor's title and the documents by which it is supported. It states the tenure under which the lands are held, and the annual and other charges and incumbrances thereon. It also contains particulars of the acreage and tenement valuation of the lands proposed to be sold.

The originating application is lodged in the Title Department of the Estates Commissioners' Office, Upper Merrion Street, Dublin, along with the following documents :—

(1) A schedule of tenancies in the form prescribed by the Rules of 23rd October 1903.†
(2) An ordnance map on the 6-inch scale, mounted on linen, and prepared in accordance with the directions contained in Rules 11, 12, and 13 of Rules of 23rd October 1903.‡
(3) A certificate of the tenement valuation of the estate.§
(4) A schedule of areas in the form prescribed by Rule 10 (*b*) of the Rules of 23rd October 1903.§
(5) An affidavit from a competent surveyor, stating that he examined the ordnance map upon the ground, and that the holdings, &c., proposed to be sold are correctly marked thereon, and that the schedule of areas is correct.‡

Declaring the Property to be an "Estate."

If the Estates Commissioners are satisfied that, *primâ facie*, the case is a proper one for a sale under the Act, they endorse a declaration upon the Originating Application to the effect that the property may be provisionally regarded as an "estate." A notification of the declaration having been made is sent to the vendor's solicitor.

The Purchase Agreements.

Contemporaneously with the preparation of the Originating Application, the vendor's solicitor should prepare agreements for purchase

* See Rules, *post* p. 481. † See Form, *post* p. 498. ‡ See Rules, *post* p. 483.
§ See Rule 10 of 23rd October 1903, *post* p. 482.

for signature by the vendor and the tenants. The agreements must be in the form prescribed by Rule 19 of the Rules of 23rd October 1903,* and contain particulars of each holding about to be purchased and the amount of the purchase money, and must state whether there are any sub-tenants on the holding. The agreements may be lodged in the Agreement and Sales Department of the Estates Commissioners' Office as soon as the Originating Application has been lodged and has received its record number, but if they are not then completed, they can be lodged within a reasonable time afterwards. No agreement will be received after the expiration of two months from the execution thereof by the tenant, save with the consent of the Commissioners.†

As soon as its turn has been reached, the matter is referred to a surveyor, who visits the estate, checks the maps with the lands, and satisfies himself that the holdings are correctly described thereon, and that the tenants are in occupation of their respective holdings.

If any of the tenants are non-judicial tenants, or if any of the prices to be given do not fall within the zones, an inspector is sent down to ascertain whether the proposed prices are fair and are sufficiently secured, and whether the holdings in question can properly be sold under the Act. The Estates Commissioners also publish and serve a notice containing particulars of the prices proposed to be given by the judicial tenants whose cases do not fall within the zones, and fixing a day for the consideration of the matter.‡ On the day appointed, any person interested may come in and object to the sale if he considers the price inadequate. If the Commissioners are satisfied that there is no valid objection to the sale, and that there is security for the sums applied for, they provisionally sanction the advances.

The Preliminary Title.

As soon as the property has been declared to be an "Estate," the vendor's solicitor must lodge in the Record Office of the Land Commission, No. 24 Upper Merrion Street, the documents upon which he relies as evidence of the vendor's title. These documents must be accompanied by a "Schedule of Deeds" prepared in duplicate.

As soon as the Estates Commissioners are satisfied with the evidence of title adduced by the vendor, they cause to be published a notice of their intention to deal with him as the owner of the estate, unless some valid reason to the contrary is shown. A similar

* See Rules, *post* p. 484.
† See Rule 20, Rules of 23rd October 1903, *post* p. 484.
‡ See Rule 22, Rules of 23rd October 1903, *post* p. 484.

notice is served by registered letter upon the persons appearing to be interested in the Estate.*

The vendor's solicitor can, if he wishes, in place of lodging preliminary evidence of his title, bring in a complete verified abstract of title to the estate. Preliminary rulings on such title will, in the first place, be issued for the purpose of ascertaining that the vendor has title to sell. At a subsequent date a full investigation of the title will be made, with the object of ascertaining the rights of all parties interested in the purchase money.† Solicitors are recommended, whenever possible, to bring in a full verified abstract in the first instance.

Placing the Purchase Money to Credit.

After the time limited by the notice has expired without any cause against the sale having been shown, the Commissioners endorse on the Originating Application a certificate that they are prepared to treat with the vendor as owner.‡ They subsequently vest the holdings in the tenants, and pay the purchase money into the Bank of Ireland. They also make an order attaching to the purchase money all claims which formerly attached to the land, such as head rents, mortgages, &c., and from that time forward the purchase money, for the purpose of such claims, represents the land. The order specifies a day, generally twelve months from its date, as "the closing day," before which date the proceedings ought to be completed and the purchase money distributed. An unqualified declaration is at this stage endorsed upon the Originating Application to the effect that the property is fit to be regarded as an "Estate."

Registering as a "Lis Pendens."

As soon as the Originating Application has been lodged, the matter may be registered as a *lis pendens*—the memorandum necessary for the purpose being prepared in the Estates Commissioners' Office and issued to the vendor's solicitor.

The Abstract of Title.

If a complete abstract has not, in the first instance, been lodged, the full abstract of title to the estate must now be prepared and verified by the vendor's solicitor. It must be lodged in the Record

* See Rule 16 of Rules of 23rd October 1903, *post* p. 483.
† See Directions of 22nd November 1905, *post* p. 558.
‡ See Rule 18 of Rules of 23rd October 1903, *post* p. 484.

Office of the Land Commission, 24 Upper Merrion Street, along with (*a*) a certificate of the registration of the matter as a *lis pendens;* and (*b*) an allocation schedule showing the manner in which it is proposed to distribute the purchase money. The Allocation Schedule must also state what claims the vendor has to be paid arrears of rent out of the purchase money, and what sum he demands on account of the bonus. The schedule should be prepared in the form used for Final Schedules of Incumbrances. The abstract of title is referred to one of the Examiners, who issues what are known as "rulings on title." These rulings state the searches which should be made in the Registry of Deeds and Judgment Offices, and specify the further information and evidence which is required to complete and vouch the title. The searches directed by the rulings are made by the solicitor to the Land Commission,* and certificates are also obtained by the Commission stating what sums (if any) are charged on the property for quit rent, tithe rent-charge, and Board of Works charges.† These certificates are sent, along with the rulings, to the vendor's solicitor, whose duty it is to make arrangements for the redemption of the charges disclosed by the certificates, and to furnish the evidence necessary to complete and vouch the title.

Redemption of Superior Interests.

The redemption price of quit rents, tithe rent-charges payable to the Land Commission, and Board of Works charges is fixed by Treasury regulations at a uniform rate, and the vendor's solicitor can, by application at the Quit Rent Office, Tithe Rent-charge Office, and Board of Works, ascertain the precise sum required to redeem each charge. Head rents, annuities, lay tithes, and such like, have no fixed redemption price, but the amount payable to the owners thereof is either arrived at by consent, or determined by the Judicial Commissioner. If the parties interested can agree upon a price, a consent is prepared providing for the redemption, and fixing the redemption price. The consent must (unless the Judicial Commissioner shall otherwise direct) be signed by the vendor and the owner of the superior interest, and the signatures must be verified by affidavit. If the title to the superior interest has not been ruled on by an Examiner, an affidavit must be filed showing that the proper and necessary persons have signed the consent. The vendor's solicitor should, however, at an early stage, call upon the owners of superior interests to lodge affidavits of title to their claims, and have same

* Order V., Rule 1 of Rules of 4th December 1903, *post* p. 524.
† Order II., Rule 2 of Rules of 4th December 1903, *post* p. 522.

ruled on. It will then be apparent who the proper parties to the consent are, and trouble and delay will be saved. The consents will be produced to the Judicial Commissioner at the hearing of the schedule, and will thereupon be made rules of Court.

When the interested parties cannot agree upon the redemption price, the vendor's solicitor must serve a Notice of Motion (grounded upon an affidavit setting out the facts) asking for an order for redemption, and (if the parties agree to have the price fixed by the Court) asking to have the redemption price determined. If the parties do not, in the first instance, leave the fixing of the price to the Court (and, if meanwhile the redemption price has not been agreed on), the vendor's solicitor must, one month * after the date of the redemption order, serve a further Notice of Motion requiring the redemption price to be fixed by the Judicial Commission. The application to fix the redemption price must, whether made in the first instance, or after the expiration of the month, be supported by an affidavit, and such other evidence of value as the vendor's solicitor may think proper. The Court will hear both sides, and, after due consideration of all the circumstances of the case, will fix the price at whatever figure it considers equitable.

Distribution of the Purchase Money.

As soon as the redemption value of the annual and other charges on the estate has been ascertained, and the costs of sale taxed or agreed on, the vendor's solicitor will proceed to distribute the purchase money. If the matter is a simple one, and if, in the opinion of the Examiner, the purchase money can be distributed in a summary manner, the Examiner will settle and vouch the Allocation Schedule, and will either—

(1) List the case before a Judicial Commissioner for allocation ; or,

(2) Issue to the vendor's solicitor a certificate to the effect that the case is a proper one for summary distribution.†

The Examiner will usually list the Allocation Schedule without issuing a certificate in cases where no question of difficulty is likely to arise, and where there are no claims against the purchase money save in respect of Quit and Crown rents, tithe rent-charges, Board of Works charges, head rents, and other similar outgoings, Crown duties and costs. The case having appeared in the list, the vendor's solicitor will attend before the Judicial Commissioner, who will go through the schedule, and make rulings for payment of the various claims

* See Order VIII., Rule 4 of Rules of 4th December 1903, *post* p. 527.
† Order IX., Rule 4 of Rules of 4th December 1903, *post* p. 528.

therein set forth, and will also direct payment of the bonus. The consents to redemption (if any) will at the same time be produced and made rules of Court. Subsequently drafts are made out by the Accountant in favour of the various parties, and the money is thus paid out of Court and the matter completed.

The certificate will usually be issued in the case of unincumbered estates where some question arises on the title, or where there is no satisfactory evidence of the payment off of charges which affected the estate, and in respect of which the vendor does not admit liability.

Within four weeks from the date of the certificate the vendor's solicitor should serve a seven-day Notice of Motion for the allocation of the purchase money. The Notice must be grounded on an affidavit made by the vendor, or by some other person who can swear positively to the facts, verifying the proposed distribution of the purchase money, and stating that in his belief there is no right, estate, interest, or claim affecting the same, or made in respect thereof, other than as therein set forth.* The Notice of Motion must have a payment schedule annexed, setting out the particulars of the proposed distribution of the funds, and prepared in accordance with the directions contained in Order IX., Rules 7 and 8 of the Rules of 4th December 1903.† Upon the day named in the Notice the case comes before the Judicial Commissioner, who, after examining the payment schedule and hearing all interested parties, makes rulings for the distribution of the fund, and for the payment of the bonus. At the same time, the consents to redemption (if any) are produced and made rules of Court. The Accountant makes out drafts in favour of the various parties, and the matter is completed as already explained.

In the case of incumbered estates, or where there are numerous head rents and claims of a like character, the Examiner usually considers the case of too complicated a nature to permit of a summary distribution of the purchase money. He will in such cases either himself prepare and settle a "final schedule of incumbrances," or he will require the vendor's solicitor to bring in a draft of such schedule for settlement.‡ Along with the Schedule will be prepared and settled a "final notice to claimants," which states the filing of the schedule in the Land Commission, and calls upon all persons who have claims which are not therein set forth, or who object to the manner in which their claims are therein stated, to lodge an objection within the time specified in the Notice. The Notice also fixes a day for the matter to appear before the Judicial Commissioner for adjudication upon the claims set out in the schedule. The Notice is served

* Order IX., Rule 6 of Rules of 4th December 1903, *post* p. 529.
† See Rules, *post* pp. 529, 530.
‡ Order IX., Rule 9 of Rules of 4th December 1903, *post* p. 530.

on all interested persons, and published in such manner as the Examiner may direct.* If no objection is lodged, and if no question arises which in the opinion of the Examiner requires the Judicial Commissioner's directions, the Examiner will cause the matter to be entered in his list for vouching, on a day prior to the hearing of the schedule, when all parties interested will attend before him with evidence of their claims being due.†

On the day named in the final notice to claimants, the matter comes before the Judicial Commissioner, who adjudicates upon the various claims, and makes orders for payment of the amount of such claims, and of the bonus, and cheques are made out by the Accountant as above explained.

If an objection to the final schedule of incumbrances is lodged, or if the Examiner requires the Judicial Commissioner's directions on any point that arises, the vouching is postponed till after the schedule has been adjudicated upon by the Judicial Commissioner. Upon the day fixed for adjudication the Judicial Commissioner hears the objection, and either allows or disallows it, and deals with any other questions that arise. As soon as the Judicial Commissioner has given his rulings on the schedule, the vendor's solicitor enters the case in the Examiner's list for vouching, and, when the vouching has been completed, the Examiner enters the matter in the Judicial Commissioner's list for allocation, when the fund is distributed in the manner already explained.

* Order III., Rule 3 of Rules of 17th May 1901, *post* p. 472.
† Order IX., Rule 10 of Rules of 4th December 1903, *post* p. 530.

IRISH LAND ACT, 1903.

(3 EDW. VII., CAP. 37).

AN ACT TO AMEND THE LAW RELATING TO THE OCCUPATION AND OWNERSHIP OF LAND IN IRELAND AND FOR OTHER PURPOSES RELATING THERETO, AND TO AMEND THE LABOURERS (IRELAND) ACTS. [14*th August* 1903.]

BE it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

PART I.

LAND PURCHASE.

Purchase and Resale of Estates.

PART I.

Sect. 1.

Advances for purchase of holdings where whole estate sold.

1.—(1) In the case of the sale of an estate (*a*), whether to the Land Commission or otherwise, when application is made for an advance under the Land Purchase Acts (*b*) of the whole purchase money of a holding (*c*), and the Land Commission are satisfied that the tenant (*d*) is in occupation (*e*) of the holding, then, subject to the limitations (*f*) in the Land Purchase Acts on advances to tenants purchasing their holdings, the Land Commission shall (*g*) sanction the advance in the following cases, namely:—

(*a*) In the case of the purchase of a holding subject to a judicial rent fixed or agreed (*h*) to since the passing of the Act of 1896 (*i*) if the purchase annuity created under this Act payable in respect of the advance will be not less than ten nor more than thirty per cent. below the existing rent; and

(*b*) In the case of the purchase of a holding subject to a judicial rent fixed or agreed to before that date, if the said purchase annuity will be not less than twenty nor more than forty per cent. below that rent;

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Provided that in the case of a holding subject to a judicial rent fixed or agreed to before the passing of the Act of 1896, the Land Commission may, if they think it equitable, and if the purchase agreement so provides, treat the holding, for the purposes of this Section, as a holding subject to a judicial rent fixed since the passing of the Act of 1896. (*j*)

(2) If the foregoing provisions are not complied with, the Land Commission may, subject to the limitations in the Land Purchase Acts (*k*), sanction the advance, if they are satisfied with the security, and if, after giving all persons interested in the estate an opportunity of being heard, they consider the agreed price to be equitable having regard to the interests of all such persons as aforesaid.

(3) The Land Commission, if they think it expedient with a view to the improvement of the estate, may declare that, for the purposes of this Section, a portion of a holding shall be deemed a holding, and in such case may apportion the rent of the holding between the portion proposed to be purchased and the remainder of the holding.

51 & 52 Vict. c. 49.

(4) Notwithstanding any provisions to the contrary contained in the Purchase of Land (Ireland) Amendment Act, 1888 (*l*), an advance may be sanctioned under the provisions of the Land Purchase Acts not exceeding the sum of seven thousand pounds to one purchaser where, in the opinion of the Land Commission, it is expedient to make any such advance for the purpose of carrying out the sale of a holding to which the Land Law Acts apply. (*m*)

(5) This Section shall not apply in the case of holdings on congested estates (*n*) in respect of which the Land Commission have given a certificate under Section 6 of this Act, nor in the case of holdings on estates purchased by the Congested Districts Board.

Establishment of zones.

This Section introduces for the first time the principle that where a landlord and a tenant agree upon a purchase price which does not, on the one hand, fall below a certain number of years purchase of the rent, or, on the other hand, exceed a certain other greater number of years purchase, the Land Commission may sanction the advance without considering the question of the security therefor, and without consulting the mortgagees and remaindermen and other persons interested in the estate. The fact that the purchase price does not exceed a certain fixed sum is considered evidence of the security for the advance, whilst the fact that it does not fall below a certain other fixed sum is taken to be a sufficient proof that the interests of the mortgagees and remaindermen are not being sacrificed. Cases in which the price comes within the limits mentioned in this Section are known as cases "within the zones."

Prior to the Act of 1903, mortgagees or other persons interested could show cause against the sale being carried out, on the grounds of insufficiency of price or otherwise (Cherry's "Irish Land Acts," 3rd edition, p. 379). In *Bolton's Estate* ([1898] 1 I. R. 401) Ross, J., held that where the purchase

money was insufficient to redeem the superior interests, a sale under Section 40 of the Act of 1896 could not be carried out. On the other hand, in *D'Arcy Irvine's Estate* ([1903] 1 I. R. 41) the lands for sale were bound to indemnify other lands from a perpetual annuity. The owners of the indemnified lands objected to the sale on the grounds that the interest on the purchase money would be insufficient to meet the annuity. MEREDITH, J., held that the sales should go on.

Under the old system the Land Commission before sanctioning an advance had to satisfy themselves as to the security therefor, either by inspecting the holding or otherwise, and were very slow about lending the money, unless the security appeared to be ample. Under the present Section they are relieved from all responsibility on that head, as, provided that the purchase price comes within the "zones," the Land Commission have no power to refuse the advance. Where, however, an advance exceeding £3000 is applied for, the Land Commission have a discretion as to whether they will lend or not (Sect. 1 (4)).

To come within the principle of the "zones" the following conditions must exist:—

Zones apply only to judicial tenants.

1. The tenant must be a judicial tenant: it being considered that whilst judicial rents all more or less conform to one standard, non-judicial rents have no such uniformity.

2. The entire purchase money must be applied for. It is obvious that, where portion of the money only is applied for, the principle of the proportion between the purchase annuity and the rent, upon which the zone system depends, does not exist.

3. The price must be such a price as will give the reduction provided for by Sub-section 1.

Where the foregoing conditions do not exist, the Commission must be satisfied as to the security for the advance, and the position of the mortgagees, remaindermen, and other persons interested, has to be considered. Sub-section (2) of the Section now being noted apparently applies to judicial tenants who apply for the whole purchase money, but who give a price which does not fall within "the zones"; whilst Section 5 (*post* p. 15) apparently deals with the case of non-judicial tenants, and with judicial tenants who apply for portion of the purchase money only. It is not very obvious why it was necessary to deal with these two classes of tenants by two separate sections, and why the conditions under which advances may be made to these two classes should be described in different language. The Estates Commissioners apparently consider the effect of the two clauses the same, as Rule 22 of Rules of 23rd October 1903, which deals with the question of notices, &c., makes no distinction between advances under Sub-section (2) and under Section 5. That rule provides that before sanctioning advances in cases which do not come within the zones, a notice must be published in the newspapers and served by registered letter on all persons interested in the estate so far as known to the Commissioners. (See *post* p. 484.)

Cases outside zones.

It is obvious that an estate which is altogether in the hands of judicial tenants who agree to prices within the zones, can be disposed of more easily and quickly than an estate which is not so circumstanced. It has been suggested that non-judicial tenants can, by the filing of agreements fixing fair rents, be converted into judicial tenants for the purposes of this Section, and this would seem to be the case, provided that the judicial rent is actually running at the time the agreement to purchase is signed, as to which see note (*h*), *post* p. 5. The Land Commission, however, look very closely into any attempt to bring a case within the zones in this way,

Creation of judicial tenancies for purposes of zones.

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Sect. 1.

because there is no real guarantee that a rent is a fair rent unless it is fixed in Court, or unless it represents a rent agreed upon between parties who have no ulterior object in view. If the rent is not a fair rent, the minimum reduction provided for by the zones of course affords no guarantee that there is security for the advance. The Land Commission have accordingly published rules dealing with the fixing of fair rents by consent, under which an application has to be brought in stating the circumstances under which the rent has been fixed. See Rules of 5th May 1904, *post* p. 553.

(*a*) **"Estate."**—This Section apparently only applies to properties which have been declared to be "estates" by the Estates Commissioners, and does not therefore affect sales carried out under the provisions of the old Land Purchase Acts, or sales by the Land Judge under Section 40 of the Act of 1896.—See note (*a*) to Section 23, *post* p. 77.

(*b*) **Land Purchase Acts.**—For meaning of, see Section 98, *post* p. 159.

(*c*) **Holding.**—For meaning of, see notes to Section 2, *post* p. 11.

(*d*) **Tenant.**—For meaning of, see notes to Section 2, *post* p. 11.

Nature of occupation necessary.

(*e*) **Occupation.**—In the case of *Rex* v. *Ditcheat*, 9 B. & C. 176, LITTLEDALE, J., in considering the meaning of the word "occupied" in 9 Geo. 4, c. 57 made the following observations. "There is a material difference between a holding and an occupation. A person may hold though he does not occupy. . . . In order to occupy, a party must be personally resident by himself or his family. . . . It is not necessary, in order to make a man an occupier, that he should actually sleep or take his meals in a house, or that his family should actually dwell in the whole house, but the law considers him for this purpose an occupier if he hold the whole, and by himself or his family occupy part." It was decided by Commissioner MacCarthy in *Egmont's Estate*, MacC. 44, that even though a tenant is not physically in occupation of the entire holding, it is sufficient if he is entitled to the occupation under a valid contract of tenancy. For the purpose of the Irish Land Purchase Acts, it would seem as if the tenant must be in occupation of the entire holding himself, subject to the following exceptions:—

Sub-lettings with consent.

1. Where a tenant sub-lets part of his holding with his landlord's consent, he is nevertheless deemed in occupation of the holding (Section 57 of the Act of 1881).

Sub-lettings to labourers.

2. Where the sub-letting is for the use of a labourer employed for the cultivation of the holding, and the Court sanctions the sub-letting; but the plot sub-let must not exceed half an acre; see Section 4 of the Act of 1887, which however does not apply to a sub-letting made during a statutory term or after the passing of that Act.

Conacre and agistment contracts.

Tenants who have made lettings in conacre or agisting agreements are not deemed to have parted with the possession. *Booth* v. *McManus*, 12 I. C. L. R. 418, *Mulligan* v. *Adams*, 8 Ir. L. R. 132; and it was decided in a registration case that where a rated occupier let the grazing of three fields under a yearly parol contract, he should nevertheless be deemed in occupation for the purpose of the Registry Acts. *O'Shea* v. *Meara*, I. R. 3 C. L. 115. As to agistment and conacre lettings not being deemed sub-lettings, see also Sections 2 and 5 of the Act of 1881. The elaborate provisions of Section 7 of the Act of 1896 as to tenants being deemed in occupation, notwithstanding sub-lettings without consent, appear to apply to fair rent proceedings only, and not to purchase cases.

Where mortgagee of tenants interest in possession.

Where a mortgagee of a tenant's interest has gone into possession the tenant can no longer be regarded as in occupation. *Farrelly* v. *Doughty*, 15 I. L. T. R. 100. In *King Harman's Estate* (No. 2) (38 I. L. T. R. 237)

a question was raised as to the powers of the Estates Commissioners to advance money to middlemen to purchase holdings which were wholly sub-let. MEREDITH, J., decided that there is no power to make advances of public money to tenants unless they are in occupation of their holdings, or else are, within the meaning of the code, deemed to be in occupation.

Practice as to sub-lettings.

In practice the Land Commission almost invariably require the sub-tenant to be made a direct tenant, so as to enable him to purchase his plot. By Section 15 (*post* p. 47) certain powers of dealing with sub-tenancies are given to the Commission.

(*f*) **Limitations in the Land Purchase Acts.**—See note (*l*), *post* p. 6.

(*g*) **Shall sanction the advance.**—The Section is imperative; the Land Commission have no power to refuse the advance if the conditions mentioned in the Section are complied with.*

As to bringing cases within the zones.

(*h*) **Subject to a judicial rent fixed or agreed to.**—In *Talbot Crosbie's Estate*, 39 I. L. T. R. 54, the facts were as follows: On 7th March 1904 an agreement and declaration fixing a second term rent for Mary Walsh was signed under Section 8 (6) of the Act of 1881. On 30th March the agreement was lodged in the Land Commission, but it was not filed till 30th June. Meanwhile on 30th April a purchase agreement was entered into between the landlord and tenant. In the case of Catherine Duggan, a non-judicial tenant on the same estate, an originating notice was served on 30th April 1904, and on the same day a consent was signed by the landlord and tenant fixing the fair rent. On the same day, but subsequently to the signing of the consent, a purchase agreement was entered into between the landlord and tenant. On 22nd July the originating notice and consent were lodged in the Land Commission, and on 26th July an order was made thereon fixing the fair rent. *Held* (by MEREDITH, J.), that, inasmuch as, until the fair rent agreement in the one case, and the originating notice and consent in the other, had been filed, neither of the holdings was, at the date of the application (*i.e.* the date of signing the purchase agreement), "subject to a judicial rent fixed or agreed to since the passing of the Act of 1896," and accordingly that the Estates Commissioners were not bound to sanction the advances applied for. It would, however, appear possible to bring a holding within the zones by having the fair rent agreement filed before the signature of the purchase agreement; but it is necessary that the holdings should at the date of the agreement to purchase be subject to the judicial rent fixed by the fair rent agreement. In the absence of an agreement to the contrary, the judicial rent runs from the gale day next after the signature of the fair rent agreement: *Dunne* v. *Knolles* [1898], 2 I. R. 308 (C. A.); but there is nothing illegal in an agreement providing that the judicial rent shall commence from an antecedent date: *Fulton* v. *Templetown* [1898], 2 I. R. 321.*

(*i*) **Passing of the Act of 1896.**—*i.e.* the 15th August 1896.

(*j*) Paragraph (*a*) provides for tenants who have had their rents fixed twice, and also for tenants who have had their rents fixed for the first time subsequently to the 15th of August 1896, it being assumed that rents fixed at such a recent date are equivalent to second term rents.

Method of calculating reduction in rent resulting from sale.

Paragraph (*b*) provides for the case of first term tenants. The Act contemplates that in negotiations between landlords and tenants the basis of the negotiations will be the percentage of reduction in the rents, and not the number of years purchase to be given. Accordingly a table (Table A) will be found at page 168, showing the amount of the annuity where reductions varying from 5 to 40 per cent. are agreed on. A table is also provided

* See Addenda.

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(Table B, p. 169) showing the amount of the purchase money in the case of any given annuity. Should this system of negotiation be adopted, a landlord and his tenants agree what reduction the tenants are to get, instead of agreeing on the number of years purchase to be given. The percentage of reduction having been agreed upon, the next step is to ascertain the amount of the annuity which each tenant is to pay, and this can easily be arrived at with the assistance of Table A. Lastly, the amount of the purchase money must be calculated, and with the aid of Table B no difficulty will be experienced in arriving at this. For example, suppose a landlord agrees with his tenants upon a reduction of 15 per cent., and wishes to ascertain the amount of the annuity and of the purchase money of a tenant whose rent is £20, 10s. 6d. a year. By means of Table A he ascertains that a rent of £20 with a 15 per cent. reduction represents an annuity of £17; that a rent of 10s. represents an annuity of 8s. 6d, and a rent of 6d. an annuity of 5d., so that these three sums added together, and amounting to £17, 8s. 11d., represent the annuity equivalent to the rent of £20, 10s. 6d. Having ascertained the amount of the annuity, he turns to Table B, and takes down the capital sums which represent annuities of £17, of 8s., and of 11d. respectively and adds them together. The total, amounting to £536, 15s. 10d., is the sum which the landlord will receive from his tenant.

If, however, the parties desire to bargain in years purchase, as has hitherto been the custom, the landlord can, by referring to Table C (p. 169), ascertain at a glance the reduction which any particular number of years purchase will afford his tenants, whilst Table D (p. 170) will show him the amount of the annuity payable in respect of any particular purchase money. It will be observed that a second term tenant who gives 28 years purchase only gets a reduction of 9 per cent., and does not therefore come within the zones. The maximum price which such a tenant can give and remain within the zones is roughly 27⅔ years purchase, whilst the minimum price is 21½ years purchase. In the case of first term tenants, who must get a reduction of from 20 to 40 per cent., the maximum price is a little over 24½ years purchase, and the minimum price, roughly, 18½ years purchase. First term tenants can, however (if the parties agree, and if the Land Commission think it equitable), be treated as second term tenants for the purposes of this Section.

Prices which come within the zones.

It is provided by Section 43 (4) (*post* p. 93) that where the Land Commission obtain an increased price for a holding, in consequence of improvements effected by them, the increase in price is not to be taken into account for the purposes of the Section now being noted.

(*k*) **Limitations in the Land Purchase Acts.**—See next note, note (*l*).

Limitations on amount of advances.

(*l*) **Provisions to the contrary contained in the Purchase of Land (Ireland) Amendment Act, 1888.**

Under the provisions of Section 2 of that Act, no advance could be sanctioned to any one purchaser exceeding £3000, unless, in the opinion of the Land Commission, the advance of a larger amount (not exceeding £5000) was expedient for the purpose of carrying out sales on the estate of the same landlord. It was held in the case of *Shaw* v. *Townshend* (34 I. L. T. R. 191) that the words "sales on the estate of the same landlord" include the sale of the holding in respect of which the advance is sought. In that case there were three tenants, one paying £200 a year, the second £5, 10s., and the third £5. An advance of £4130 was sanctioned to the largest tenant. It was decided by MEREDITH, J., in *Spunner's Estate* (38 I. L. T. R. 166): (1) That in arriving at the amount of an advance to be made under Section 2 of the Act of 1888, the amount due upon a holding purchased under the

Land Purchase Acts, and assigned to the applicant for the advance, and in his possession at the date of the application, is not to be taken into account. (2) That the original purchaser of a holding under the Land Purchase Acts who assigns that holding, and then applies for an advance in respect of another holding, cannot, in estimating the amount to which he is entitled, disregard the amount of the first advance.

Advances to trustees, &c.

By Section 30 of the Act of 1896 it is provided that, in computing the amount to be advanced to any one purchaser under the above Section, advances made to such purchaser as a trustee or as a personal representative are not to be included.

Sales in consideration of a fine and rent charge.

Under Section 36 of the Act of 1896, a sale by a landlord to a tenant may be made partly in consideration of a fine and partly in consideration of a rent charge, and the Land Commission can, subject to certain conditions, advance the amount of the fine. Large holdings, the tenants of which cannot obtain an advance of the whole purchase money, could no doubt be sold in this way.

Under the Act of 1903 the limit is increased to £7000 in the case of holdings to which the Land Law Acts apply, but certain cases are to be dealt with exceptionally, under the following Sections:—

Cases in which the £7000 limit does not apply.

1. The increased limit of £7000 does not apply to congested estates in respect of which a certificate has been given under Section 6 of the Act, nor to holdings on estates purchased by the Congested Districts Board (Sect. 1 (5)).

2. Advances for the purchase of parcels of estates under Section 2 must not (except under certain circumstances) exceed £1000 (Sect. 2 (2)).

3. Where a vendor repurchases portion of his property under Section 3, he can get an advance not exceeding one-third of the aggregate amount of the purchase money of the holdings and other parcels of land comprised in the estate, or £20,000, whichever is the less (Sect. 3 (2)).

4. Where trustees purchase a parcel of an estate for the purpose of turbary, &c., an advance may be made of such amount as the Lord Lieutenant may sanction (Sect. 4 (2)).

5. Advances in respect of tenancies created after 1st January 1901 shall not (except under certain circumstances) exceed £500 (Sect. 53 (1)).

6. Advances in respect of tenancies created by a letting from a Court or Judge (save where land is resold to the vendor of an estate) shall not exceed £1000 ; but the limit may, under certain circumstances, be increased to £2000 (Sect. 53 (2)).

7. Where a vendor or his trustees repurchase a parcel of an estate bought by the Congested Districts Board, an advance may be made not exceeding one-third of the purchase money of the estate, or £20,000, whichever is the less (Sect. 76 (1)).

Holdings excluded from Land Law Acts.

(*m*) **To which the Land Law Acts apply.**—The Land Law Acts, which are defined by Section 98 (*post* p. 159), deal with the fixing of fair rents, and a number of cases, such as holdings consisting of town parks and demesne lands, which come within the Purchase Acts, are excluded from the Land Law Acts. The Land Law Acts do *not* apply to tenancies in—

Town parks.

1. Any holding ordinarily termed "town parks," adjoining or near to any city or town, which bears an increased value as accommodation land over and above the ordinary letting value of the land occupied as a farm, and is in the occupation of a person living in such city or town, or the suburbs thereof.

Labourers plots.

2. Any holding which the tenant holds by reason of his being a hired labourer or hired servant.

Conacre and agistment.

3. Any letting in conacre, or for the purpose of agistment, or for temporary depasturage.

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Temporary convenience.

4. Any holding let to the tenant during his continuance in any office, appointment, or employment, or for the temporary convenience, or to meet a temporary necessity either of the landlord or tenant: provided that any such letting made after the 22nd of August 1881 shall be by contract in writing, which shall express the purpose for which such letting is made.

Cottage allotments. Glebes.

5. Any cottage allotment, not exceeding half an acre.

6. Any "glebe" as defined by 38 & 39 Vict. c. 42 which is held or occupied by any "ecclesiastical persons" as by the same Act defined.

The foregoing exceptions are created by Section 58 of the Act of 1881.

Residential.

7. Any holding which is not substantially either agricultural or pastoral in its character, or partly agricultural and partly pastoral, or the main object of the letting of which was for a residence.

Home farms and demesnes.

8. Any holding which substantially consists of—

(A) land being or forming part of a home farm; or,

(B) land which when first demised was demesne, and which the provisions of the contract of tenancy, or the circumstances of the case, show was intended to be preserved as demesne or resumed as demesne by the landlord; or

(C) land incorporated in a demesne by the tenant, and forming part of a demesne at the time the application to fix a fair rent is made.

Pasture.

9. Any holding (other than a holding let to be used wholly or mainly for a dairy farm) which is let to be used wholly or mainly for the purpose of pasture—

(A) if it is of the rateable value of upwards of £100; or

(B) if the tenant does not actually reside on the holding, or where the holding adjoins or is ordinarily used with another holding, then on the latter holding.

The above exceptions, Nos. 7 to 9 inclusive, are created by Section 5 of the Act of 1896.

Very full notes on these exceptions and the tenancies which fall within them will be found in Cherry's "Land Law Acts," 3rd edit., pp. 352 and 517.

Advance of £7000 can only be made to tenants within Land Law Acts.

The maximum advance of £7000 provided for by the Section now being noted only applies to such holdings as come within the terms of the Land Law Acts. Tenants of holdings to which the Land Law Acts do not apply can only obtain advances of £3000, or in exceptional cases £5000, as provided by Section 2 of the Purchase of Land Amendment Act, 1888.

(*n*) **Congested estates** are defined by Section 6 (5) (*post* p. 16). It is to be observed that this Section is inapplicable to those congested estates only in respect of which a certificate under Section 6 (4) has been given.

Advances for purchase of other portions of estate.

2.—(1) In the case of the sale of an estate advances under the Land Purchase Acts may be made for the purchase of parcels thereof by the following persons:—

(*a*) A person being the tenant of a holding on the estate;

(*b*) A person being the son of a tenant of a holding on the estate;

(*c*) A person being the tenant or proprietor of a holding not exceeding five pounds in rateable value, situate in the neighbourhood of the estate; and

(*d*) A person who within twenty-five years before the passing of this Act was the tenant of a holding to which the

Land Law Acts apply, (*a*) and who is not at the date of the purchase the tenant or proprietor of that holding: (*b*) Provided that in the case of the death of a person to whom an advance under this paragraph might otherwise have been made, the advance may be made to a person nominated by the Land Commission as the personal representative of the deceased person. (*c*)

(2) Advances under this Section shall not together with the amount (if any) of any previous advance under the Land Purchase Acts then unrepaid by the purchaser, exceed one thousand pounds: (*d*)

Provided that the limitation in this Sub-section may, subject to the other limitations (*e*) in the Land Purchase Acts, be exceeded where the Land Commission consider that a larger advance may be sanctioned to any purchaser without prejudice to the wants and circumstances of other persons residing in the neighbourhood. (*f*)

(3) The Land Purchase Acts shall, subject to the provisions of this Section, apply to the sale of a parcel of land in pursuance of this Section, in like manner as if the same was a holding (*g*), and the purchaser was the tenant (*h*) thereof at the time of his making the purchase, and the expression "holding" in those Acts shall include a parcel of land in respect of the purchase of which an advance has been made in pursuance of this Section.

Sales of untenanted land.

This Section enables untenanted portions of an estate (whether sold directly to the tenants by the landlord or through the medium of the Land Commission) to be sold under the Land Purchase Acts. It also enables untenanted land purchased by the Land Commission under Section 8 to be disposed of in a similar way. Its objects are not only to facilitate the sale of untenanted land in the hands of landlords, but also to make provision for the following cases:—

(*a*) It enables tenants of small holdings on the estate to enlarge their holdings, or to obtain better holdings in lieu thereof.

(*b*) It enables the sons of tenants on the estate to get new holdings for themselves, instead of continuing to live upon the family holding, as so many tenants' sons have hitherto done.*

(*c*) It enables the tenants or proprietors of small holdings in the neighbourhood of the estate to have their holdings enlarged.

(*d*) It enables evicted tenants, or their representatives, to obtain holdings.

Old law as to sales of untenanted land.

As the law stood prior to the Act of 1903, unoccupied land could be sold to tenants in the following cases:—

(1) By Section 27 of the Act of 1881 where the Land Commission had purchased an estate, they could sell parcels thereof which they did not sell to the tenants in such manner as they might think fit, and could make an advance of half the purchase money.

(2) Very similar provisions were contained in Section 7 of the Act of 1885.

(3) Under Sections 1 and 3 of the Purchase of Land Amendment Act, 1889, a purchasing tenant could purchase additional land, not exceeding

* See Addenda.

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10 acres in area or £10 in rateable value, adjoining his holding, or suitable for the enjoyment of such holding.

(4) Under Section 14 of the Tramways and Public Companies (Ireland) Act, 1883, where a public Company have purchased an estate, they may sell any parcels which they do not sell to the tenants in such manner as they think fit, and the Land Commission may advance half the purchase money.

Repeals.

Section 27 of the Act of 1881 and Section 7 of the Act of 1885 are repealed by Section 103 of the Act of 1903, but the other Sections above referred to remain in force.

Practice.

For form of agreement to be used for the purchase of a parcel, see Rule 19 of Rules of 23rd October 1903, *post* p. 484.

(*a*) **Holding to which the Land Law Acts apply.**—As to the meaning of these words, see note (*m*), *ante* p. 7.

Sales to persons who have left their holdings voluntarily.

(*b*) Though paragraph (*d*) is intended to apply to evicted tenants, it would seem as if any person who was, at any time since the 14th August 1878 the tenant of a holding to which the Land Law Acts apply, and who subsequently left it, whether by eviction *or otherwise*, can take advantage of this Section. Under Section 12 (*post* p. 34), the Land Commission can put into repair the buildings on evicted farms and otherwise improve them, and can also assist in re-stocking such farms.

(*c*) **Nominated by the Land Commission as the personal representative.**—Section 59 of the Act of 1870 provides that the Civil Bill Court, on being satisfied that a tenant has died, and that there is no legal personal representative available for the purposes of that Act, may by order appoint an administrator of the deceased tenant limited to the purposes of that Act.

Section 38 of the Act of 1881 declares that there shall be incorporated with that Act the following provisions of the Act of 1870, as if the purposes therein referred to included the purposes of the Act of 1881; viz. (*inter alia*) Section 59, relating to administration on death of tenant. It was decided in *Ex parte Johnson* (20 I. L. T. R. 76) that under these two Sections the Land Commission had power to appoint a personal representative of a deceased tenant. Apart from these Sections the Land Commission have no general power of appointing personal representatives of deceased persons, and it appears to be a question whether the powers thereby given would extend to the appointment of a personal representative of a man who was at one time a tenant, but who had in all probability ceased to be so long prior to his death. A power of appointing personal representatives *for the purpose of sales of tenancies* under the Act of 1881 is given by Section 14 of that Act, and a similar power is given by Section 21 of the Act of 1896, in the case of applications under the *Land Law Acts*, but neither of these Sections would warrant the appointment of a personal representative for the purposes of the Section now being noted.

Section 69 of the Act of 1903 (*post* p. 147) gives a power of appointing a personal representative *where the applicant for an advance has died*, but this Section would only appear to be applicable where the deceased person had actually applied for an advance prior to his death.

(*d*) As to the meaning of Sub-section (2), see remarks of MEREDITH, J., in *Spunner's Estate* (38 I. L. T. R. 166).

(*e*) **Limitations in the Land Purchase Acts.**—See note (*l*) to Section 1, *ante* p. 6.

(*f*) **The wants and circumstances, &c.**—The meaning of these words is, that the Land Commission are not to allow any one person to acquire a large tract of land so as to prevent the other persons in the neighbourhood obtaining land, for which they have a real necessity.

(*g*) **Holding.**—Holding is defined by Section 57 of the Act of 1881 as follows: "'Holding' during the continuance of a tenancy means a parcel of land held by a tenant of a landlord for the same term and under the same contract of tenancy, and, upon the determination of such tenancy, means the same parcel of land discharged from the tenancy." By Section 48 (2) of the Act of 1896 it is provided that the words "parcel of land" in the above Section shall be deemed to include an undivided share of land, whether held alone or held under the same contract of tenancy with land held in severalty.

(*h*) **Tenant.**—Tenant is defined by Section 57 of the Act of 1881 as follows: "'Tenant' means a person occupying land under a contract of tenancy, and includes the successors in title to a tenant"; and in the same Section it is declared that "contract of tenancy" means "a letting or agreement for the letting of land for a term of years, or for lives, or for lives and years, or from year to year." Section 26 of the Act of 1885 provides that the expression "tenant" shall include a tenant holding under a fee farm grant.

Section 40 of the Act of 1896 provides that any person in occupation of and paying rent for a parcel of land (including the owner of an estate in occupation of a mansion house or demesne forming part of the estate) held under a letting by the Land Judge or Receiver Judge may agree to purchase such parcel of land, and the same shall be deemed a holding, and such person a tenant, and the Land Judge or Receiver Judge, as the case may be, a landlord within the meaning of the Land Purchase Acts.

By Section 48 of the Act of 1896 it is declared that the expression "tenant" includes the predecessors in title of a tenant.

Creation of tenancies for purpose of sale.

It was decided in *Bedoyere's Estate* (24 I. L. T. R. 87) that a tenancy created subsequently to the Act of 1885 is not excluded from the benefits of the Purchase Acts, but the Commission must be satisfied as to the validity and *bona fides* of the contract of tenancy, as well as of the agreement for purchase, and that the tenant is in occupation under such contract. In that case Mr. Commissioner Lynch pointed out that the tenancies which are by Section 58 of the Act of 1881 excluded from the provisions of the Land Law Acts, are by that Section expressly brought within the scope of the Purchase Acts, and that the 26th Section of the Act of 1885 further enlarges the definition of a tenant entitled to purchase by including a grantee under a fee farm grant.

In *Egmont's Estate* (MacC. 44) it was decided that tenancies created for the purpose of a sale are to be acted upon by the Land Commission, but that they should satisfy themselves that there is no improper collusion, and that the new tenant is not a nominee of the owner in a tenancy artificially created in order to oust the previous tenant. On the other hand, in *Goodbody's Estate* (1 Greer. 35) two persons were put into possession as yearly tenants for the purpose of a sale. The yearly agreements provided that, in the event of advances not being sanctioned, the tenants should deliver up possession to the landlord. MEREDITH, J., held that it would be contrary to the spirit and letter of the Land Purchase code to make the advances, that in this case there never was any tenancy at all; that for the purpose of the Land Purchase Acts there must be a real landlord, a real tenant and a real tenancy.* It is provided by Section 53 of the Act of 1903 (*post* p. 114) that where a tenancy is created subsequently to the 1st of January 1901, not more than £500 shall be advanced in respect thereof, except under the circumstances mentioned in that Section. In *Rynd's Estate* (38 I. L. T. R.

* See Addenda.

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107) a lessee's interest was being sold in the Land Judges Court. The owner was bankrupt, but the assignees had not elected to take the leasehold. The owner's landlord having offered to sell under the Land Purchase Acts, Ross, J., directed the receiver to sign the agreement to purchase in the owner's name.

Advances to owners of estates.

3.—(1) Where the owner of an estate has entered into agreements under the Land Purchase Acts for the sale to persons other than the Land Commission of the estate, the Land Commission may purchase from him any demesne (*a*) or other land in his occupation (*b*) and adjacent to, or in the neighbourhood of, the estate at a price which in their opinion represents the selling value of that land, and in such case may resell the whole or any portion of that land to him; provided that the Land Commission may, if they think it necessary for furthering the purposes of this Act, dispense with the condition in this Sub-section that the land purchased and resold shall be adjacent to, or in the neighbourhood of, the estate.

(2) Where any land is so resold, or where a parcel of an estate purchased by the Land Commission is resold to the vendor, (*c*) or (in the case of an estate purchased from the Land Judge) to the former owner of the estate or a person nominated by the Land Commission as his representative, an advance under the Land Purchase Acts may be made not exceeding in any case one-third of the aggregate amount of the purchase money of the holdings and other parcels of land (*d*) comprised in the estate, or twenty thousand pounds, whichever is the less. (*e*)

(3) In entering into agreements for the resale of any land to the vendor of an estate the Land Commission shall have regard to the amount of land available for the enlargement of holdings where they consider such enlargement necessary. (*f*)

(4) Where any land is resold in pursuance of this Section a Judicial Commissioner may, if he thinks it equitable, on the application within the prescribed time (*g*) of any person who, at the date of the sale of the land to the Land Commission, was entitled to any estate in remainder or reversion in that land, order, upon such terms and conditions as he may think reasonable, that the land so resold shall devolve in accordance with the terms of the settlement which at the date of the sale to the Land Commission affected it. (*h*)

(5) If the owner of any demesne or other land subject to settlement and sold to the Land Commission does not repurchase the same within the prescribed time, (*i*) the Land Commission may make an advance under this Section to the trustees of the settlement, and in such case the land resold shall be held subject to the trusts of the settlement.

(6) Any land resold in pursuance of this Section shall not be subject to the provisions of the Local Registration of Title (Ireland) Act, 1891, (*j*) relating to the devolution of freehold registered land. (*h*)

54 & 55 Vict. c. 66.

General object of Section.

This Section is intended to offer a further inducement to landlords, and principally those whose estates are heavily incumbered, to sell. It enables a landlord who has charges extending over his demesne and his tenanted land, bearing interest at perhaps 4½ per cent. or 5 per cent., to sell his demesne to the Land Commission and employ the purchase money in paying off the charges. He can then borrow the money to buy back his demesne at 3¼ per cent., and thus considerably improve his annual income.

For instance, take the case of a landlord who has an estate the tenanted portion of which brings him in £1000 a year, and who has besides a house and demesne in his own hands, out of which he makes £500 a year. The entire estate is subject to family charges for £25,000, bearing interest at 5 per cent., so that after paying £1250 a year interest and allowing £100 a year for estate expenses, the landlord's income is only £150 a year. If the landlord sells the tenanted portion to the tenants at 20 years purchase, he will receive £20,000 and a bonus of £2400. If the agent's fee for negotiating the sale and the legal expenses come to £900, there will remain £21,500 for payment of charges. This would leave a sum of £3500 still charged on the demesne, representing in interest £175 a year. If the demesne produces £500 a year, the owner will have for himself a profit of £325 instead of the £150 which he received before the sale. Suppose, however, that he sells the demesne to the Land Commission for 15 years purchase of its annual value, or £7500, and borrows from them a similar sum to buy it back; and suppose that he employs £3500 in paying off the balance of the charges, and invests the residue at 4 per cent. He will receive from his investment £160 a year, and will obtain from the demesne £500 a year, making in all £660 a year. Out of this he will have to pay the Land Commission 3¼ per cent. on £7500, or £243, 15s. a year, leaving a net profit rent of £416, 5s. a year. Thus the clause enabling him to buy back his demesne will increase his income from £325 to £416, 5s. He will be completely free from incumbrances, and every year as the term for which the annuity is payable decreases, his interest in the demesne becomes of greater value.

No bonus on land repurchased.

It is to be observed that no bonus is allowed on any land repurchased by a vendor, and this whether he sells his entire estate or only the demesne to the Land Commission (see Sect. 48 (2)).

Sporting rights.

Mining rights.

In selling the demesne to the Land Commission it would seem advisable for the vendor, if he wishes to retain the sporting rights, to have such rights expressly reserved by the agreement, as otherwise they might possibly vest in the Land Commission (see Sect. 13 (1)). The general rule that all mining rights become vested in the Land Commission does not apply to land repurchased under this Section (see Sect. 13 (3)). As to the conditions upon which demesne land is held after repurchase, see note (*a*) to Section 54, *post* p. 118. Where the vendor sells his whole estate to the Land Commission, the land which he desires to repurchase is specified in the form of originating request by which the proceedings are commenced (see Rule 2 of Rules of 23rd October 1903, *post* p. 481, and form of "originating request," *post* p. 495). Where the vendor sells his tenanted land direct to his tenants, and desires to sell his demesne to the Land Commission

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with a view to repurchase, the proceedings are commenced by a form of "originating application" (see Rule 1 of Rules of 23rd October 1903, *post* p. 481, and form "A," *post* p. 491).

(*a*) **Demesne.**—The expression "demesne" includes any mansion house or other buildings thereon (see Sect. 98, *post* p. 159). There is no definition of demesne in any of the Land Purchase Acts, nor does any complete and satisfactory definition appear to occur in any of the numerous cases which have been decided. For a collection of these cases, see Cherry's "Irish Land Acts," 3rd edition, pp. 527 *et seq.*

(*b*) **Occupation.**—For meaning of, see note (*e*) to Section 1, *ante* p. 4.

No express power of resale where L. C. buy entire estate.

(*c*) **Resold to the vendor.**—By Sub-section (1) express power is given to the Land Commission to resell demesne land purchased from the owner of an estate who has sold his property direct to his tenants. No such express power of resale is given where the Land Commission buys an entire estate from the owner thereof (under Sect. 6), or from the Land Judge (under Sect. 7). Under Sections 27 of the Act of 1881, and 7 of the Act of 1885, the Land Commission had power to sell parcels of an estate, which they could not sell to the tenants in such manner as they thought fit, but these two Sections are repealed by the 103rd Section of the Act of 1903. Possibly the power of making advances given by the Sub-section now being noted may be held to imply a power of sale.

(*d*) **Other parcels of land.**—Under Section 2 (*ante* p. 8) parcels of untenanted land can be sold to tenants and others.

Difference in amount of advance where entire estate sold and where demesne sold.

(*e*) It was contended in *Finlay's Estate* (38 I. L. T. R. 101) that when a vendor sells his tenanted land to the tenants under Section 1, and sells his demesne to the Land Commission with the intention of repurchasing it, the maximum advance to which he is entitled for that purpose is a sum equal to one-third of the purchase money of the *holdings only*. MEREDITH, J., refused to adopt this view, and decided that the maximum advance to which such a vendor is entitled is a sum equal to one-third of the purchase money of the holdings *plus the demesne*, or £20,000, whichever is the less.

In *Mahon's Estate* (38 I. L. T. R. 258) the vendor sold his demesne to the Land Commission under Section 3 for £31,672, and agreed to repurchase the same for the like sum—of which £17,448 was to be advanced by the Land Commission, and £14,224, the balance, secured to the Land Commission by a memorandum of charge. The memorandum of charge was entered on the schedule subsequently to the other incumbrances, and there was sufficient money, not only to meet the charge, but also to leave something over for the vendor. The Land Commission retained out of the purchase money the amount of the charge. MEREDITH, J., held that the retainer should be deemed to be in full payment of the amount of the charge, and, accordingly, made no order for payment of the same.

"Un-economic" holdings.

(*f*) One of the objects of the Act is to abolish what are known as "un-economic holdings," that is to say, holdings which are insufficient for the support of a tenant. This Sub-section provides, that before agreeing to resell any land to the vendor, the Land Commission are to consider whether there are any un-economic holdings in the neighbourhood, and, if so, are to retain sufficient land for their enlargement. The Sub-section only deals specifically with resales to "the vendor of an estate," but no doubt it also applies to resales to former owners of estates purchased from the Land Judge.

(*g*) **Prescribed time.**—Is six months from the date of the resale. See Rule 24 of Rules of 23rd October 1903, *post*, p. 485.

(*h*) Sub-sections (4) and (6) apply to Sales by the Congested Districts Board to a vendor or his trustees. See Section 76 (2), *post* p. 150.

(*i*) **Prescribed time.**—Is one month from the date of the notification to the vendor by the Commissioners of the terms upon which they propose to resell the demesne. See Rule 23 of Rules of 23rd October 1903, *post* p. 485.

Provisions of Local Registration of Title Act.

(*j*) The provisions of the Local Registration of Title (Ireland) Act, 1891, as to the devolution of freehold registered land are contained in Sections 83 to 89 of that Act. Under those provisions freehold registered land rested in a purchaser under the Land Purchase Acts on his death becomes vested in his personal representatives, and this notwithstanding any testamentary disposition by him made (Sect. 84). On the death of such a person intestate the beneficial interest in the land devolves as if it were personal estate. (For text of these Sections, see Appendix B, *post* p. 208.) See also *Browning* and *Glover's Local Registration of Title in Ireland*, pp. 165–175.

Advances to trustees.

4.—(1) In the case of the sale of an estate advances under the Land Purchase Acts may be made for the purchase, by any trustees approved of by the Land Commission, of any parcel of the estate to be held subject to the provisions of this Act, (*a*) for the purposes of turbary, pasturage, the raising of sand or gravel, the cutting or gathering of seaweed, the planting of trees, or the preservation of game, fish, woods or plantations, or for the purposes of the Labourers (Ireland) Acts, 1883 to 1896, (*b*) as amended by this Act.

(2) An advance in pursuance of this Section may be of such amount as the Lord Lieutenant may sanction.

(*a*) **Subject to the provisions of this Act.** See Section 20, *post* p. 72, as to the framing of schemes in respect of land purchased under this Section.

(*b*) **The purposes of the Labourers (Ireland) Acts, 1883 to 1896.**—"The object of the Acts" (*i.e.* the Labourers (Ireland) Acts) "is to better the condition of agricultural labourers in Rural Districts, by providing them with suitable dwellings and garden allotments." See O'Sullivan's "Labourers Acts," 3rd edition, p. 2.

For a list of the Labourers (Ireland) Acts, see note (*d*) to Section 100, *post* p. 163.

Sanction of advances in cases not within zones.

5.—In the case of the sale of an estate where an application for an advance, to which the provisions of Sub-section 1 of Section 1 of this Act do not apply, (*a*) is made, the Land Commission may, subject to the limitations in the Land Purchase Acts, (*b*) advance the whole or part of the purchase money if they are satisfied with the security (*c*) and are of opinion that, having regard to all the circumstances of the case, the agreed price is equitable. (*d*)

(*a*) **The provisions of Sub-section 1 of Section 1 do not apply.** As to the different classes of tenants which come within the terms of Section 1 (1), Section 1 (2), and Section 5, see notes to Section 1, *ante* p. 3.

(*b*) **The limitations in the Land Purchase Acts.**—See note (*k*) to Section 1, *ante* p. 6.

(*c*) **Satisfied with the security.**—An advance cannot be sanctioned under this Section until the Land Commission have inspected the holding, or have otherwise satisfied themselves that there is security for the advance.

(*d*) **The agreed price is equitable.**—The rules provide that before an advance can be sanctioned under this Section a notice shall be published in the newspapers and served by registered letter on all persons interested in the estate so far as known to the Commissioners. This notice appoints a day when the proposed advances will be considered by the Commissioners; upon which occasion all parties interested can come in and make such application to the Commissioners relative to the advances as they may desire. (See Rule 22 of Rules of 23rd October 1903, *post* p. 484, and form of notice, *post* p. 515.)*

Purchase of estates by Land Commission.

6.—(1) Where the owner (*a*) of an estate (*b*) makes an application in the prescribed form (*c*) to the Land Commission, requesting them to inquire into the circumstances of the estate with a view to the sale thereof under this Part of this Act, the Land Commission may, after due inquiry, propose to purchase the estate, and in estimating the price shall have regard to the foregoing provisions of this Act in respect of advances, (*d*) and to the prices which the tenants and other persons are willing to give for the holdings and other parcels of land (*e*) comprised in the estate.

(2) If within the prescribed time (*f*) the owner of the estate agrees to sell the estate at the estimated price, and tenants of holdings on the estate, to the extent of not less than three-fourths in number and rateable value, (*g*) undertake to purchase from the Land Commission their holdings, or other designated parcels of land in lieu thereof, for the respective amounts on the basis of which the price of the tenanted portion of the estate was estimated by the Commission, the Commission may agree to purchase the estate for the estimated price.

(3) The Lord Lieutenant may, under special circumstances and with the approval of the Treasury, dispense with the condition in the last preceding Sub-section as to undertakings to purchase holdings, where the Land Commission certify to him that they are of opinion that the resale of the estate can be effected without prospect of loss.

(4) In the case of a congested estate as defined by this Section, if the Land Commission, with the consent of the owner, certify to the Lord Lieutenant that the purchase and resale of the estate are desirable in view of the wants and circumstances of the tenants thereon, then the Land Commission may purchase the estate for a price to be agreed upon, and in such case the condition in this Section as to resale without prospect of loss may be relaxed to such extent as the Lord Lieutenant may determine. (*h*)

(5) The expression "congested estate" means an estate not less than half of the area of which consists of holdings not exceeding

* See Addenda.

five pounds in rateable value, or of mountain or bog land, or not less than a quarter of the area of which is held in rundale or intermixed plots. (*i*)

Sales to L. C.

There are two alternative methods of selling estates. In one the vendor negotiates with his tenants himself and agrees on the price which each individual tenant is to pay; in the other, he sells the entire estate to the Land Commission for a lump sum. Section 6 deals with sales of the latter kind.

It is believed that since the Act came into operation the majority of sales have been sales direct to the tenants. There are some cases, however, in which sales to the Estates Commissioners may be preferable; for instance—

Cases where sales to L. C. desirable.

(1) Where the estate is a "Congested Estate." A better price may possibly be obtained than the tenants could afford to give (see Sect. 6 (4)).

(2) Where the estate consists of uneconomic holdings, or holdings which are insufficient to afford a livelihood, and the vendor has untenanted land which he wishes to dispose of.

(3) Where questions of re-instatement of evicted tenants have to be dealt with.

(4) Where the vendor finds it impossible to deal with a small section of the tenants, who form less than one-fourth in number and rateable value of the tenants on the estate (see Sect. 19).

There is apparently no objection to the vendor entering into preliminary negotiations with the tenants before approaching the Estates Commissioners, but there is no obligation on the Estates Commissioners to adopt the terms arrived at between the vendor and the tenants. It is believed that, where a vendor and his tenants have come to an agreement on all points, and there is no special reason for putting Section 6 in force, the Estates Commissioners will not encourage such a vendor to come in under that Section merely for the purpose of getting his negotiation fee paid by the Commission under Section 23 (11).

Differences between sales to L. C. and sales direct.

Sales direct to the tenants differ from sales to the Commission in the following particulars:—

Interest prior to vesting.

1. Where an estate is sold to the Land Commission, the rents and profits of the estate are paid to them as from the date of the agreement (Sect. 18 (1)), whilst they pay interest as 3½ per cent. to the vendor from the date of the agreement until the estate is vested in them (Sect. 18 (2)).

If the vendor sells direct to his tenants, he continues to receive rent from each tenant until he signs his agreement to purchase. After the tenant signs his agreement he pays interest on the purchase money, at a rate to be agreed on, until the holding is vested in him. This rate will in future probably not exceed 3½ per cent., or possibly in the case of heavily incumbered estates, 4 per cent. (See note (*a*) to Sect. 18, *post* p. 70.) As the lodgment of a tenant's agreement in the Land Commission discharges the tenant from all arrears of rent due, and as there is always a difficulty in getting tenants to pay their rent up to the date on which the agreement is to be lodged, it is probable that in the majority of cases there will be a loss of a few months rent. Under the old Purchase Acts this generally happened. Where the Land Commission purchase an estate, all arrears of rent become payable to them (Sect. 18 (1)), and no doubt something will be added to the purchase price for such of the arrears as the Land Commission consider ought to be collected.

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Interest after vesting.

2. Where a landlord sells direct to his tenants, as soon as a holding is vested in a tenant, the purchase money is paid into the Bank of Ireland (Sect. 24 (1)), and becomes available for distribution, but it cannot, of course, be distributed until title to it has been shown. Meanwhile the Land Commission pay interest to the vendor on the purchase money at 3½ per cent. (Sect. 24 (2)). Should the dividends produced by the purchase money be insufficient to pay the 3½ per cent., then the difference is made up by drawing on the principal (Sect. 24 (3)).

On the other hand, where the Land Commission buy the estate from the landlord they pay interest to him at 3½ per cent., from the date when they make the order vesting the land in them until the purchase money is distributed (Sect. 24 (2)). In this case no portion of the interest is paid out of capital.

The vendor can, however, where he sells direct to his tenants, apply to have the purchase money invested in any trustee securities (Sect. 25 (4)), which ought to yield in or about 3½ per cent., so that, if things are carefully managed, there should be no necessity to draw on the principal for payment of the interest.

Negotiation fee.

3. Sales of estates to the Land Commission are apparently negotiated by the vendor's solicitor or agent at the expense of the Commission (Sect. 23 (11)).

Sales direct to the tenants are negotiated at the expense of the vendor (as to which see Sect. 23 (12)).

Unwilling tenants forced to buy.

4. Where an estate is sold to the Land Commission and three-fourths of the tenants agree to buy, the Land Commission can compel the remaining tenants to buy also (Sect. 19). They have no such power where a landlord sells direct to his tenants. The provisions of Section 19 will no doubt prove most useful, as there are on nearly every estate a few cranks who refuse to buy on any reasonable terms.

Improvement of estates.

5. The provisions of Section 12 are clearly applicable to estates purchased by the Commission, but it appears doubtful whether these provisions can be applied to estates sold direct to the tenants. (See notes to Section 12, *post* p. 34.)

Estimate from Public Trustee.

As to getting an estimate of the probable financial result of a sale from the Public Trustee, see Section 52 (15), *post* p. 112.

(*a*) **Owner.**—As to who may be dealt with as owners. See Section 17, *post* p. 52.

(*b*) **Estate.**—The Land Commission cannot purchase an estate which is not in the main agricultural or pastoral. See Section 10, *post* p. 32. For definition of "estate," see Section 98, *post* p. 158.

(*c*) **Prescribed Form.**—See Rule 2 of Rules of 23rd October 1903, *post* p. 481.

Basis on which L. C. estimate the price.

(*d*) **Shall have regard to the foregoing provisions of this Act in respect of advances.**—These words are rather vague, and it is hard to say precisely what obligations are thrown upon the Estates Commissioners by them. The foregoing provisions of the Act in respect of advances are as follows:—

Section 1 (1) provides for the compulsory making of an advance in cases within the zones.

Section 1 (2) provides for the optional making of an advance to judicial tenants who apply for the whole purchase money in cases outside the zones.

Section 1 (4) raises the limit of advances to £7000.

Section 2 (1) provides for the purchase of parcels of estates.

Section 2 (2) limits the advance in such cases to £1000, except under certain circumstances.

Section 3 (1) provides for advances for repurchases by vendors.

Section 3 (2) limits the amount of the advances in such cases.

Section 4 provides for advances to trustees for purposes of turbary, &c.

Section 5 provides for advances in cases which do not come within Section 1 (1).

The Section directs the Commissioners in fixing the price to "have regard" to the foregoing provisions, and the question at once arises as to the effect of these words in connection with Section 1 (1) of the Act. It is suggested that a fair construction to place upon them would be to hold the Commissioners bound in the case of every judicial tenant to fix a price which would fall within the zones, unless there happened to be some exceptional circumstances in the case. Further, that, in fixing prices within the zones, they should not make a practice of adhering to either the higher or the lower limit, but should regard the medium price fixed by the zones as a fair average price, and should estimate the value of the holdings with which they have to deal accordingly.

With regard to the provisions in respect of advances contained in the other Sections above referred to, it is presumed that the words now being discussed mean that, when estimating the price of the estate, the Commissioners should consider how much thereof can be sold as parcels under Section 2, how much can be resold to the vendor under Section 3, and how much can be disposed of by the other methods provided for by the Sections above referred to.

(*e*) **Other parcels of land.**—Parcels of land may be sold to persons who are not the tenants thereof under Section 2 (*ante* p. 8). A parcel of an estate may be resold to the vendor under Section 3 (*ante* p. 12), also to trustees for turbary and other purposes under Section 4 (*ante* p. 15).

(*f*) **Prescribed time.**—Is one month from the date of the notification to the vendor of the terms on which the Commissioners will purchase the estate. See Rule 23 of Rules of 23rd October 1903, *post* p. 485.

Undertakings to be signed before L. C. can agree.

(*g*) **Three-fourths in number and rateable value.**—To enable the Land Commission to purchase the estate under this Section, the following conditions must exist:—

1. Tenants of at least three-fourths of the holdings on the estate must sign undertakings to purchase.

2. The valuation of the holdings of the tenants who sign undertakings must amount to at least three-fourths of the valuation of the holdings on the entire estate.

3. It is immaterial whether the tenants purchase their own holdings or other parcels of land; but it is essential that the prices which they give be equivalent to the amounts at which the value of their holdings was estimated by the Commissioners.

It is to be observed that three-fourths of the *tenants on the estate* must sign; it will not be sufficient if sons of tenants, or neighbouring tenants agree to purchase parcels of land, no matter how great the value of such parcels may be as compared with the rest of the estate.

If three-fourths of the tenants sign, the Land Commission can by order declare that the remaining tenants be deemed to be purchasers (see Sect. 19, *post* p. 71). It should be noted that Section 6 speaks of tenants of *three-fourths of the holdings* on the estate, whilst Section 19 speaks of *three-fourths of the tenants* on the estate. If one man has three holdings, each holding would apparently count as a separate holding under Section 6,

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—*query*, would such a tenant count as three tenants under Section 19, or only as one?

No undertakings for untenanted land. Congested estates.

There is no obligation no the Land Commission to obtain undertakings in respect of the untenanted land, nor is there any means of enforcing the sale of such land, as in the case of the fourth of the tenants who refuse to buy.

(*h*) In the case of ordinary estates, the general rule is that tenants of three-fourths of the holdings must sign undertakings before the Land Commission can agree to buy.

There is an exception to this rule created by Sub-section (3), which provides that where the Land Commission are of opinion that the estate can be resold without loss, the Lord Lieutenant may, with the Treasury's consent, dispense with the undertakings by the tenants.

Limitation on loss on congested estates.

In both these cases the intention appears to be that the Land Commission are not to risk any loss.

In the case of congested estates, whose purchase and resale are certified to be desirable, the Land Commission do not fix the price by reference to what the tenants are prepared to give. They offer what they consider a fair price, and can then resell to the tenants at such a lower figure as the Lord Lieutenant may sanction. It is, however, provided by Section 9 (*post* p. 31) that the Land Commission shall not in any one year enter into agreements involving the expenditure on the purchase of congested estates, of sums which would in the aggregate exceed by more than ten per cent. the aggregate sums for which the Commission estimate that those estates can be resold by them.

Any loss incurred on the purchase and resale of congested estates is to be paid as part of the expenses of the Land Commission in the manner provided by Section 44, *post* p. 94, as to which, see that Section.

Sect. 1 does not apply to congested estates.

It should be noted that the provisions of Section 1 do not apply to congested estates, in respect of which the Land Commission have given a certificate under Sub-section (4) of the Section now being noted (see Sect. 1 (5)). Accordingly, the principle of the zones does not apply to such estates, nor does the increased limit of £7000 provided for by Section 1 (4).

A congested estate, in respect of which the above certificate has *not* been given, appears to be in precisely the same position as other estates.

Meaning of congested estate.

(*i*) A congested estate may come under any one of the following heads:

1. An estate not less than half the area of which consists of holdings not exceeding £5 in rateable value.

2. An estate not less than half the area of which consists of mountain or bog-land.

3. An estate not less than a quarter of the area of which is held in rundale or intermixed plots.

Sales in Court of Land Judge, 21 & 22 Vict. c. 49.

7. Where it appears to the Land Commission expedient to take steps with a view to the purchase, for the purposes of this Part of this Act, (*a*) of an estate (*b*) for the sale of which an absolute order has been made under the Landed Estates Court (Ireland) Act, 1858, the following provisions shall have effect:—

(1) The Land Judge may, at the request of the Land Commission, cause the Commission to be furnished with such particulars and documents as they may require respecting the estate, including a schedule in the prescribed form (*c*) of the

tenancies thereon and a statement of the superior interests (*d*) (if any) to which the estate is subject:

(2) The Land Commission, after causing the estate to be inspected, may, subject to the provisions of the last preceding Section as to undertakings to purchase holdings and resale without prospect of loss, (*e*) make an offer to the Land Judge for the purchase of the estate, or of any part thereof, discharged from the claims of all persons (*f*) who are interested in the estate, whether in respect of superior or intervening interests, (*g*) or incumbrances, (*h*) or otherwise, and the offer shall contain the following particulars:—

(*a*) The land comprised in the offer;

(*b*) The arrears of rent which are to be transferred to the Commission; and

(*c*) The amount of the purchase money:

(3) The Land Judge, after giving such notice of the offer as he thinks fit, and after giving all parties interested in the estate an opportunity of being heard, shall, if he does not consider the offer sufficient, as soon as practicable, unless the offer is in the meantime withdrawn, (*i*) put up for public auction the land specified therein discharged from all claims as aforesaid, but subject to the conditions mentioned therein as to arrears of rent or otherwise, and shall, unless he considers it unreasonable or unjust, having regard to the interests of any such party as aforesaid, sell the same to the highest bidder:

(4) Where an estate is sold in pursuance of this Section the Land Judge shall have all the powers for the apportionment and redemption of superior and intervening interests conferred on him by the Land Purchase Acts (*j*):

(5) An order of the Land Judge declaring the Land Commission to be the purchasers of any land shall have the effect of an order vesting land in the Commission made by them under this Part of this Act, and shall also vest in them the right to collect and recover any arrears of rent specified in the order, and a certified copy thereof shall be transmitted to the registering authority under the Local Registration of Title (Ireland) Act, 1891, and the Land Commission shall thereupon be registered, under that Act, as the absolute owners of the land: 54 & 55 Vict. c. 66.

(6) Where the Land Commission make an offer under this Section for the purchase of an estate, the provisions of Section 40 of the Act of 1896 shall be suspended and shall not have effect, in the case of that estate, unless and until the offer is withdrawn or the estate is put up for auction and not sold.

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How estates in Land Judges Court affected by Act, 1903.

All persons concerned in estates, the subject of proceedings in the Court of the Land Judge, which are capable of being sold under the Land Purchase Acts, will do well to consider how their interests are affected by the Act of 1903.

Estates of the above character fall into two classes.

1. Those to which the provisions of Section 40 of the Act of 1896 apply.

2. Those to which the provisions of that Section do not apply.

Estates to which Sect. 40 applies.

To bring an estate within the terms of Section 40, two conditions must exist.

A. An absolute order for sale must have been made, and,

B. Either a receiver must have been appointed, or the estate must be insolvent.

When these conditions were fulfilled, then, prior to the Act of 1903, the estate had to be offered to the tenants under the provisions of Section 40, and till this had been done, could be sold by no other method. *Owen's Estate* (1897), 1 I. R. 200. But if the tenants waived their rights under Section 40, and agreed to purchase through the Land Commission, and all parties interested agreed, the sale could be carried out in this way: *Howlin's Estate*, 4 I. W. L. R. 128. It was however possible, with the consent of all parties interested, to dismiss the petition and discontinue the proceedings for sale. *Bunbury's Estate* [1901], 1 I. R. 248. And this may be done even in opposition to the wish of an incumbrancer who has no chance of being paid. *Weymys' Estate* [1897], 1 I. R. 540. But in *Bentley's Estate* (37 I. L. T. R. 29), Ross, J., refused to dismiss the petition on the consent of all parties interested, except one incumbrancer who had very little chance of being paid, holding that it was impossible to say that the objecting incumbrancer had absolutely no chance of ever being reached.*

Under the Section now being noted a new method of procedure is established, and, should that method be adopted, the provisions of Section 40 are suspended (Sub-sect. 6). There is one other mode of procedure by which such an estate may be sold, namely, that provided by Section 77 (*post* p. 150), under which the Congested Districts Board may become the purchaser. If the estate is sold in this way, the provisions of Section 40 are suspended. *Burke's Estate*, 38 I. L. T. R. 198. See also Section 1 of the Congested Districts Board (Ireland) Act, 1899, which does not appear to have been referred to in that case.

Five methods by which both Sect. estates may be dealt with.

It thus appears that there are five different courses open to persons having carriage of estates to which Section 40 applies.

1. The petition may be dismissed, and the proceedings for sale discontinued with the consent of all parties interested.

2. The estate may be offered to the tenants under the provisions of Section 40, as has hitherto been the practice. See notes to Section 57, *post* p. 123.

3. If the tenants waive their rights under Section 40, and all persons interested consent, the estate can be sold to the tenants through the Land Commission.

4. The estate may be sold to the Land Commission under Section 7 of the Act of 1903.

5. The estate may be sold to the Congested Districts Board under Section 77 of the Act of 1903.

The first method—

Dismissing petition with a view to obtaining bonus.

With regard to No. 1, it may in certain cases be advantageous to have the proceedings dismissed, and a sale subsequently carried out in the Land Commission Court, with a view to obtaining the bonus for the tenant for

* See Addenda.

life; it being the rule that when an estate is sold by the Land Judge, the bonus is added to the purchase money, and not paid to the tenant for life (Sect. 48 (1), *post* p. 97). There will not, as a rule, be any bonus payable in respect of estates to which Section 40 applies, because those estates are for the most part insolvent. Estates, however, which come within the terms of Section 40, by reason of a receiver having been appointed, but which are at the same time solvent, will be entitled to receive a bonus, and the question will in such cases arise as to the wisdom of taking the estate out of Court, with the object of securing the bonus for the tenant for life. As to the possibility of rendering an insolvent estate solvent, and so obtaining the bonus, see note (*j*) to Section 48, *post* p. 99.

As a rule no bonus for 40th Sect. estates.

The second method—

With regard to the second method of procedure, assuming the estate to be a solvent one and the bonus *primâ facie* payable, it must be pointed out that there is a question as to whether the bonus can be paid where a sale takes place under the machinery established by Section 40. The bonus is only payable in respect of an "estate," that is, a property which the Estates Commissioners have declared "fit to be regarded as a separate estate" (see *Leonard's Estate*, 38 I. L. T. R. 204), and as sales under the 40th Section do not come within the jurisdiction of the Estates Commission at all, there seems to be a serious difficulty in obtaining this declaration. For a fuller discussion of the point, see note (*a*) to Section 23, *post* p. 77. Therefore, in the case of those 40th Section estates which are not insolvent, it would seem inadvisable to proceed by the old system of request and report.

Sales by request and report.

Where, however, the estate is insolvent, the Court (in the absence of special circumstances) is not in favour of applying the provisions of Section 7, as no question can arise as to the bonus, and the Estates Commissioners are much pressed with business. The classes of estates to which the provisions of Section 7 are most properly applicable are—

Estates to which Sect. 7 properly applicable.

(*a*) Solvent estates.

(*b*) Estates which comprise a considerable area of unoccupied land, whether solvent or not.

(*c*) Estates which comprise a village or small town, as well as other lands to which the provisions of the previous Land Purchase Acts would have been applicable.

It must also be remembered that there is a question whether the principle of the zones, the right of repurchasing the demesne, &c., are applicable to estates sold by the old method of request and report, and if any important question should arise with regard to these matters, it may be preferable to proceed under Section 7 rather than by the machinery prescribed by Section 40. For a fuller discussion of these points, see note (*a*) to Section 23, *post* p. 77.

The third method—

The sale can only be made in this way when the tenants waive their rights under Section 40, and when all persons interested consent. The signature of proposals on form 34 A (see notes to Sect. 57, *post* p. 122) is considered to amount to a waiver by the tenants of their rights under Section 40, and it is sometimes found convenient where terms have been arranged with the tenants to carry out the sale in this way.

Sales to tenants under Act of 1885.

The fourth method—

Since the Act of 1903 was passed, a number of estates have been sold under Section 7. When sold thus, there is no difficulty in having the property declared an "estate," and no question can arise as to the payment of the bonus to estates which are solvent, or as to the principle of

Sales under Sect. 7.

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the zones, repurchase of demesne, &c., being applicable. The classes of estates to which Section 7 most properly applies have already been mentioned when dealing with the second method.

Procedure.

In order to put Section 7 into operation the solicitor having carriage applies to the Land Judge by notice of motion (grounded on an affidavit) for liberty to approach the Estates Commissioners. The order having been made, the solicitor communicates with the Estates Commissioners, who request the Land Judge to furnish them with the necessary particulars of the estate. (As to what these particulars are, see Rule 25 of Rules of 23rd October 1903, *post* p. 485.)

The Estates Commissioners, having considered the matter, send a proposal to purchase to the Registrar of the Land Judges Court, who informs the solicitor having carriage. The solicitor thereupon serves a notice of motion to bring the offer before the Land Judge in the same way as the offer of any other intending purchaser is brought forward. The Judge after hearing all parties interested either accepts or rejects the offer.

The Estates Commissioners can also, without receiving any intimation from the Land Judge, request to be furnished with the particulars of the estate, but the Land Judge holds that it is optional with him to give or refuse the particulars.*

Where the solicitor having carriage proceeds under Section 7 it is advisable for him to obtain in the first instance undertakings to purchase from tenants of holdings on the estate to the extent of not less than three-fourths in number and rateable value.*

Sales to C. D. Board.

The fifth method—

A sale to the Congested Districts Board may sometimes be desirable, especially in the case of an estate on which the tenants are poor and the holdings small. In such a case the Board may be able to arrange for the enlargement and redistribution of the holdings.

Estates to which Sect. 40 does not apply.

Estates which are not subject to the provisions of Section 40 may be dealt with in a variety of ways.

1. The petition may be dismissed, and the proceedings discontinued with the consent of the petitioning incumbrancer, and on notice to all incumbrancers mentioned in the third schedule to the petition, or who have entered appearances in the matter. See Madden's "Practice before the Land Judge," 3rd edition, page 125.

2. The provisions of Section 40 may, upon the application of the owner, be applied to the estate (Sect. 40 (3), Act 1896).

3. The estate may be sold to the Land Commission under Section 7 of the Act of 1903.

4. The estate may be sold to the Congested Districts Board under Section 77 of the Act of 1903.

5. The estate may be sold by the Land Judge either by public auction or private contract. See Section 55 of Landed Estates Court Act, 1858, and see Rule 27 of the Landed Estates Court Rules of 1859.

6. The estate may be sold by the Land Judge to the tenants. See Section 4 of the Act of 1885 and Rules of March, 1897, Order XXXVII. Rules 1 to 3, *post* p. 409. See also notes to Section 57, *post* p. 122.

Estates to which bonus payable.

Every estate, the subject of proceedings for sale in the Land Judges Court, which is capable of being sold under the Land Purchase Acts, but which does not come within the terms of Section 40, is entitled to receive a bonus, and therefore in such cases it will be well to consider whether it is worth while taking the estate out of Court so as to sell it

* See Addenda.

through the Land Commission, and enable the tenant for life to get the bonus.

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No bonus is payable (see Sect. 48, *post* p. 97).

Estates to which no bonus payable.

(*a*) In respect of an insolvent estate sold by the Land Judge. But where an undivided share of the estate is insolvent and the other undivided share solvent, the bonus will be payable on the entire. *Minhear's Estate*, 38 I. L. T. R. 215 (MEREDITH, J.).

(*b*) In respect of an insolvent estate with regard to which an absolute order for sale was in force on 14th August 1903. There appears, however, to be nothing to prevent a bonus from being paid in respect of an insolvent estate where the order for sale is made subsequently to 14th August 1903, provided that such estate is not sold by the Land Judge.

(*c*) In respect of an estate sold by a mortgagee in possession. This provision is no doubt intended to apply—not to sales in the Land Judge's Court, but to sales by mortgagees to tenants through the Land Commission Court under Section 42 of the Act of 1896.

Arrears of rent and interest on purchase money.

As to the arrears of rent recoverable, and as to interest on purchase money where tenants purchase from Land Judge, see Section 57, *post* p. 121.

Easements.

As to dispensing with ascertainment of rights, easements, and boundaries, see Section 59, *post* p. 126.

Exchange.

As to powers of Land Judge to ratify exchange of land in certain cases, see Section 60, *post* p. 127.

Modification of Sect. 40.

Section 58 (*post* p. 124) provides that the report under Section 40 shall be made by one Commissioner instead of two, that demesne land, or land suitable for building sites, shall not be offered under that Section to a Court tenant, unless the Judge so directs, and that if the Land Commission report that they cannot sanction advances to three-fourths of the tenants on the estate, the Judge may by order declare that the provisions of Section 40 shall not apply.

The full text of Section 40 will be found in Appendix B, *post* p. 218.

(*a*) **Purposes of this part of this Act,** *i.e.* for resale to the tenants.

(*b*) **Estate.**—The Land Commission cannot purchase any estate which is not in the main agricultural or pastoral (Sect. 10, *post* p. 32).*

Rules.

(*c*) **Prescribed form.**—As to the form of Schedule and as to the particulars to be furnished to the Land Commission, see Rule 25 of Rules of 23rd October 1903, *post* p. 485.

(*d*) **Superior interests.**—Section 31 of the Act of 1896, which provides for the redemption of superior interests, contains the following definition in Sub-section (8) thereof:—

Definition of "superior interests."

"The expression 'superior interest' shall include any rent, rent-charge, annuity, fees, duties, or services, payable or to be rendered in respect of the land sold to any person, including Her Majesty and her successors, and any estates, exceptions, reservations, covenants, conditions, or agreements, contained in any fee-farm grant, or other conveyance in fee, or lease, under which such land is held, and, if such land is held under a lease for lives or years renewable for ever, or for a term of years of which not less than sixty are unexpired at the date of the sale, shall include any reversion or estate expectant on the determination of such lease or expiration of such term, and notwithstanding that such reversion or estate may be vested in Her Majesty and her successors." For full text of this Section, see Appendix B, *post* p. 216.

Section 98 (2) of the Act of 1903 provides that "the expression superior interest in the Land Purchase Acts shall include any reversion or estate

* See Addenda.

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Reversion on a base fee may now be redeemed.

expectant on the determination of an estate tail or a base fee, whether such reversion or estate is, or is not, vested in the Crown." The Act of 1903 provides for the *casus omissus* in the Act of 1896, under which a reversion expectant on the determination of an estate tail or of a base fee could not be redeemed. As to the effect of including Crown reversions in the expression "superior interest," see notes to Section 64, *post* p. 139.

Meaning of "base fee."

The meaning of a "base fee" is explained in Challis' "Law of Real Property," 2nd edition, p. 297, as follows:—

"A base fee is a fee descendible to the heirs general, upon which subsists a remainder or reversion in fee simple. Here the descent to the heirs general distinguishes it from a fee tail, where the descent is to the heirs of the body; and the existence in expectancy upon it of a remainder or reversion distinguishes it from all other fees that descend to the heirs general." A base fee generally arises where a tenant in tail bars the entail during the lifetime of the tenant for life, but without his consent. The result of this is that the tenant in tail acquires a disposable estate in the land for so long as he has any issue or descendants living, but for no longer.

Reversions on leases for lives not renewable.

There is apparently still no power to deal with the reversion expectant on the determination of a lease for lives not renewable for ever (see Cherry's "Irish Land Acts," 3rd edition, p. 572), but this is seemingly of no importance, as a person holding under a lease at a rent for lives not renewable cannot sell under the Land Purchase Acts.

Provisions as to congested estates.

(*e*) **Undertakings to purchase holdings and resale without prospect of loss.**—See note (*h*), *ante* p. 20.

The effect of these words appears to be not only to incorporate the provisions of Section 6 dealing with estates where undertakings are given, or where resales can be effected without prospect of loss, but also the provisions of that Section dealing with congested estates. In other words, the provisions of Sub-sections (2) (3) (4) and (5) of Section 6 appear to apply to purchases by the Land Commission from the Land Judge. That this is so seems to be shown by the terms of Section 9 (*post* p. 31), which after providing that the Land Commission shall not in any one year agree to expend on the purchase of congested estates sums which exceed by more than 10 per cent. the sums for which they estimate that those estates can be resold, proceeds to declare that "for the purposes of this Section the acceptance by the Land Judge of an offer shall be deemed an agreement."

(*f*) **Discharged from the claims of all persons.**—These claims attach to the purchase money. See Sub-section 5, and see Section 16, *post* p. 50. In *Tottenham's Estate* (38 I. L. T. R. 190), Ross, J., decided that the provisions of Sub-section (2), requiring the estate to be sold discharged from all superior interests, do not prevent him from reserving the sporting rights over an estate sold under Section 7 should he think it desirable.

(*g*) **Intervening interests.**—For meaning of, see Section 15 (2), *post* p. 47.

Definition of "incumbrances."

(*h*) **Incumbrances.**—Section 34 of the Act of 1887 provides: "The expression 'incumbrance' means any legal or equitable mortgage in fee or for any less estate, and also any money secured by a trust, and also any legacy, portion, lien, or other charge, whereby a gross sum of money is secured to be paid on an event or at a time certain, and also any annual or periodical charge which, by the instrument creating the same or any other instrument, is made purchasable on payment of a gross sum of money, and every other charge on land which is deemed an incumbrance in a

Court of Equity, and which a Court would discharge by a sale of the land charged, or by the appointment of a receiver over the same."

(*i*) **Withdrawn.**—If the offer is withdrawn, or if the estate is put up for auction and not sold, Section 40 comes into play. See Sub-section 6.

(*j*) In *Butler's Estate* (31 I. L. T. & S. J., p. 86), BEWLEY, J., expressed the opinion that the powers of apportionment and redemption conferred upon the Land Judge by Section 31 (4) of the Act of 1896 are only exercisable when a holding is sold by the Land Judge to the tenant thereof, and not where the Land Judge sells to the Land Commission. The Sub-section now being noted expressly confers these powers where an estate is sold by the Land Judge to the Land Commission under Section 7 of the Act of 1903.

The powers of apportionment and redemption conferred upon the Court by the various Acts are generally dealt with together by the Sections creating these powers, but it is thought that, even at the expense of a little prolixity, it will be more convenient to treat of them separately.

Firstly, then, as to apportionment:—

Powers of apportionment conferred on L. Judge by L. E. Court Act.

Apart from the Land Purchase Acts, the Land Judge has the following powers under the Landed Estates Court Act, 1858.

Section 68 of that Act provides that:—

Crown rents.

(*a*) The Court may, with the consent of the Commissioners of Woods, apportion any Crown rent amongst the lands liable thereto, or charge the whole of such rent on any part of the lands in exoneration of the remainder.

Incumbrances and charges.

(*b*) The Court may, where part only of any land or lease subject to any incumbrance or charge is sold, charge the part not sold with such incumbrance or charge, or an apportioned part thereof, in exoneration of the money arising from the sale.

The full text of Section 68 will be found in Appendix B (*post* p. 173).

Quit rents.

Section 12 of the Crown Lands Act, 1894, provides that the powers of apportionment and exclusive charge of any Crown rent conferred by the above Section shall extend to any quit rent or other perpetual rent payable to the Crown in respect of land in Ireland, and may be exercised whether the land liable to the rent is being sold by the High Court or not.

Section 72 of the Landed Estates Court Act provides that:—

Tenants' rents.

(*a*) Where any land to be sold under that Act is subject to a lease or under-lease for years or lives comprising other land at an entire rent, the Court may apportion the rent between the land to be sold and the remainder of the land subject to such rent.

Head rents.

(*b*) Where it is intended to sell under that Act a part only of any lease in perpetuity or other lease, the Court may, where it thinks fit, and (having regard to the rights and interests of the owner of the reversion) it appears to the Court just so to do, apportion the rent reserved by such lease between the land to be sold and the remainder of such land.

The full text of Section 72 will be found in Appendix B (*post* p. 174).

Powers of apportionment conferred on L. Judge by L. P. Acts.

The powers of apportionment conferred on the Land Judge by the Land Purchase Acts are as follows:—

Section 31 (4) of the Act of 1896 declares that where a holding is sold by the Land Judge to the tenant thereof, and an advance under the Land Purchase Acts is made for the purpose, the Land Judge shall have the powers of apportionment and redemption conferred on the Land Commission by Sections 15 and 16 of the Act of 1887, and by Section 20 of the Act of 1891, as the same are amended and extended by that Act (*i.e.* the Act of 1896), in like manner as if the Land Judge were the Land Commission.

For full text of this Section, see Appendix B, *post* page 214.

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Crown rents, quit rents, and tithe rent-charges.

Land improvement and drainage charges.

Section 15 (1) of the Act of 1887 provides that when any land sold under the Land Law (Ireland) Acts is subject with other lands to any Crown rent, quit rent, or tithe rent-charge, the Land Commission may, if they think it expedient, apportion such Crown rent, quit rent, or tithe rent-charge, between the land sold and the other land, in such manner as to them seems equitable; and when any such land is subject with other lands to any land improvement charge or drainage charge, the Commissioners of Public Works, on the requisition of the Land Commission, may apportion the same between the land sold and other lands, and may issue a certificate setting forth such apportionment; but no apportionment of Crown or quit rent is to be made without the consent of the Commissioners of Woods, and no apportionment of land improvement charges or drainage charges is to be made without the consent of the Treasury. For full text of this Section, see Appendix B, *post* p. 204.

Annuities and rent-charges.

Section 16 (1) of the Act of 1887 provides that when any land sold under the Land Law (Ireland) Acts is subject with other lands to any annuity or rent-charge, the Land Commission may, if they think it expedient, by order apportion the same as between such land and the other lands subject thereto. For full text of this Section, see Appendix B, *post* p. 205.*

Superior rents.

Section 20 of the Act of 1891 provides that the provisions of Section 16 of the Act of 1887 shall apply to any superior rent affecting a tithe rent-charge, or rent ordered to be redeemed pursuant to the provisions of the Act of 1887, or to any fee-farm grant or lease reserving the same. The full text of this Section will be found in Appendix B, *post* p. 208.

Superior interests.

Section 31 (3) of the Act of 1896 declares that the powers of apportionment and redemption, given to the Land Commission by Sections 15 and 16 of the Act of 1887, shall extend to superior interests, and be exercised in such manner as shall appear equitable, and shall not be limited to an apportionment between the land sold and the residue of the land subject to the superior interest. The full text of this Section will be found in Appendix B, *post* p. 214.

Superior interests are defined by this Section. See note (*d*), *ante* p. 25.

Powers of apportionment to apply to purchase money.

Section 33 (1) of the Act of 1896 provides that for the purpose of the distribution of, or other dealing with, an advance, Sections 15 and 16 of the Act of 1887, and any other unrepealed enactment in the Land Purchase Acts, or the Act of 1896, relating to the redemption or apportionment of charges on holdings, or otherwise to the distribution of the purchase money of a holding, shall apply as if the money were the holding.

Contingent annuities or rent-charges.

Sub-section (3) of the same Section provides that Sections 15 and 16 of the Act of 1887, as amended by Section 33 of the Act of 1896, shall apply to any contingent liability for any annuity, rent-charge, or rent, in like manner as they apply to the annuity, rent-charge, or rent itself, and where any contingent liability has no appreciable value, the money may be distributed without regard to such liability.

Where indemnities exist Old practice.

Sub-section (4) of the same Section provides that where any liability for any annuity, rent-charge, or rent is apportioned and redeemed out of the purchase money, and a right of indemnity in respect of such liability exists, the person entitled to the purchase money shall be entitled to the proportion of the annuity, rent-charge, or rent so redeemed, in like manner as if he had purchased the same, and the Court, after due notice to all persons interested, shall make provision as to the future payment of such portion of the annuity, rent-charge, or rent so purchased, and as to the land to be liable thereto, and such other provisions as appear to the Court

* See Addenda.

necessary for carrying into effect this enactment. For full text of this Section, see Appendix B, *post* p. 216.

The effect of Section 33 (4) of the Act of 1896 was, that where an estate was liable in conjunction with other lands to a head rent, but was indemnified therefrom by those other lands, the vendor of the estate had, notwithstanding the indemnity, to apportion the head rent and redeem the portion of it placed upon his estate. That is to say, he had to redeem a rent which he had never paid. To compensate him for this, he became entitled to a rent, equivalent to the rent which he had to redeem, issuing out of the indemnifying lands. The provisions of this Section were found to be unsatisfactory, chiefly because persons who have decided to sell their property in a particular locality do not care to be forced to buy up head rents payable out of adjoining lands.

Where indemnities exist. New practice.

It is now provided by Section 62 of the Act of 1903 that where no payment in respect of a superior interest has been made out of the estate for sale for twenty years, or where a right of indemnity exists in respect thereof, and the Court is satisfied that the other lands subject to such superior interest are sufficient security therefor, the Court may, in the first case, distribute the purchase money without having regard to the superior interest, and in the second case exclusively charge the superior interest on the indemnifying lands. See Section 62, *post* p. 132.

Apportionment of quit and crown rents. New practice.

Apportionments of quit and Crown rents are in future to be made by the Commissioners of Woods. See Section 61, *post* p. 129; and see Rules issued by Commissioners of Woods, *post* p. 319.

Secondly, as to redemption.

Powers of redemption conferred on L. Judge by L. E. Court Act.

Apart from the Land Purchase Acts, the Land Judge has the following powers under the Landed Estates Court Act, 1858. Section 68 of that Act provides that:—

Crown and quit rents.

(*a*) The Court may sell any land, or part thereof, discharged from any Crown rent or quit rent which it may be enabled, and may, with the consent of the owner, think fit to purchase, or from any charge made by virtue of the Acts 5 & 6 Vict. c. 89, and 10 & 11 Vict. c. 32, or either of them, which it may with such consent think fit to pay off or redeem. The charges created by the above Acts are drainage and land improvement charges.

Drainage and land improvement charges.

Crown reversions.

(*b*) The Court may, where it shall think fit, purchase, with the consent of the Commissioners of Woods, any estate or interest of the Crown in remainder or reversion in the whole or any part of the lands for sale.

Annual and other charges.

(*c*) The Court may pay to any person entitled to any annual or other charge (not being an incumbrance according to the definition in the Landed Estates Court Act), who may consent to accept the same, a gross sum in discharge or by way of redemption thereof or of a part thereof. The definition of incumbrance in the Landed Estates Court Act is precisely similar to the definition in Section 34 of the Act of 1887. See note (*h*) to this Section, *ante* p. 26.

Investments to meet charges.

(*d*) The Court may, where it shall think fit, invest or provide for the investment of money to meet any annual or periodical charge, or any other charge, incumbrance, or interest, where, by reason of such charge, incumbrance, or interest being contingent or otherwise it shall appear to the Court expedient so to do. For full text of this Section, see Appendix B, *post* p. 173.

Crown Lands Act, 1894.

Section 12 of the Crown Lands Act, 1894, extends the powers conferred by Section 68 to any quit rent or other perpetual rent payable to the Crown in respect of land in Ireland, and provides that such powers may be exercised whether the land liable to payment of the rent is being sold by the High Court or not.

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The powers of redemption conferred on the Land Judge by the Land Purchase Acts are as follows :—

Powers of redemption conferred on L. Judge by L. P. Acts.

Section 31 (4) of the Act of 1896 provides that where a holding is sold by the Land Judge to the tenant thereof, and an advance under the Land Purchase Acts is made for the purpose, the Land Judge shall have the powers of apportionment and redemption conferred on the Land Commission by Sections 15 & 16 of the Act of 1887, and Section 20 of the Act of 1891, as amended and extended by the Act of 1896, in like manner as if the Land Judge were the Land Commission. For full text of this Section, see Appendix B, *post* p. 214.

Crown rents, quit rents, and tithe rent-charges.

Section 15 (2) of the Act of 1887 provides that the Land Commission may, if they think it expedient, order the redemption of any Crown rent, quit rent, or tithe rent-charge, or any apportioned part thereof, at a price to be fixed by the Land Commission. They may also, if they think it expedient, order the redemption of any land improvement charge or drainage charge or apportioned part thereof in accordance with the scale fixed by the Statutes in that behalf ; but no redemption of quit or Crown rents is to be made without the consent of the Commissioners of Woods, or of land improvement charges, drainage charges, or tithe rent-charges payable to the Land Commission, without the consent of the Treasury. For full text of this Section, see Appendix B, *post* p. 204.

Land improvement and drainage charges.

Annuities, rent-charges, and rents.

Section 16 (3) of the Act of 1887 provides that the Land Commission shall, on the application of the person entitled to a part of an annuity, rent-charge, or rent, which part shall have been apportioned by them upon land sold, and may, if they think it expedient, without such application, order the redemption of such annuity, rent-charge, or rent, or of an apportioned part thereof, and may, notwithstanding the fact that no apportionment has been made, order the redemption of any annuity, rent-charge, or rent affecting land sold, at a price to be fixed by agreement between the parties, or to be determined by the Land Commission on consent of the parties, or if they do not consent, then to be settled by arbitration. For full text of this Section, see Appendix B, *post* p. 205. So much of this Section as relates to arbitration is now repealed by the schedule to the Act of 1903.*

Superior rents.

Section 20 of the Act of 1891 provides that where any tithe rent-charge, annuity, rent-charge, or rent, or any apportioned part thereof, is ordered to be redeemed pursuant to the provisions of the Act of 1887, the Land Commission shall have the same powers as are contained in Section 14 (1) of that Act, and the provisions of Section 16 of the said Act shall apply to any superior rent affecting such tithe rent-charge or rent, or to any fee farm grant or lease reserving the same.

Section 14 (1) of the Act of 1887 authorises the Land Commission to pay the purchase money of any holding in respect of which they have agreed to make an advance into the Bank of Ireland, and by order to declare that the claims of all persons shall attach to the purchase money and cease to be of validity as against the land.

Superior interests.

Section 31 (3) of the Act of 1896 provides that the powers of apportionment and redemption given to the Land Commission by Sections 15 and 16 of the Act of 1887 shall extend to superior interests and be exercised in such manner as shall appear equitable, and shall not be limited to an apportionment between the land sold and the residue of the land subject to the superior interest. For definition of "superior interest," see note (*d*) to this Section, *ante* p. 25.

Section 31 (5) of the Act of 1896 provides that the redemption price of

* See Addenda.

a superior interest is to be determined in the manner provided by Section 16 (3) of the Act of 1887 for the redemption of annuities, rent-charges, and rents, but that where such superior interest is of no value the purchase money of the land may be distributed without having regard thereto. For full text of Section 31, see Appendix B, *post* p. 214.

Fixing of redemption price. Old practice.

But a new method of fixing the redemption price is now established by Section 64 of the Act of 1903. See that Section, *post* p. 138.

New practice.

Section 33 (1) of the Act of 1896 provides that for the purpose of the distribution of, or other dealing with, an advance, Sections 15 and 16 of the Act of 1887, and any other unrepealed enactment in the Land Purchase Acts, or in the Act of 1896 relating to the redemption or apportionment of charges on holdings, or otherwise to the distribution of the purchase money of a holding, shall apply as if the money were the holding.

Powers of redemption to apply to purchase money.

Sub-section (2) of the same Section provides that the Court may determine the parties by whom the agreement fixing the redemption price is to be made.

Sub-section (3) of the same Section provides that Sections 15 and 16 of the Act of 1887, as amended by Section 33 of the Act of 1896, shall apply to any contingent liability for any annuity, rent-charge, or rent, in like manner as they apply to the annuity, rent-charge, or rent itself, and where any contingent liability has no appreciable value, the money may be distributed without regard to such liability. For full text of Section 33, see Appendix B, *post* p. 216.

Contingent annuities, rent-charges, or rents.

The old method of dealing with indemnities, and the new procedure substituted therefor, have already been explained, *ante* p. 28.

Where indemnity exists.

As to the redemption of intervening interests, see Section 15 (2), *post* p. 47.

Intervening interests.

As to the redemption price of superior interests not exceeding a certain amount, see Section 63, *post* p. 137.

Superior interests of little value.

8. The Land Commission may purchase any untenanted land which they consider necessary for the purpose of facilitating the resale, or redistribution, of estates purchased, or proposed to be purchased, by them, and the foregoing provisions of this Act (*a*), with respect to advances for the purchase of parcels of land comprised in estates, shall apply in the case of the sale by the Commission of any parcel of such untenanted land.

Purchase of untenanted land.

This Section does not apparently authorise the Land Commission to make indiscriminate purchases of untenanted land anywhere they please. It only appears to enable them to buy land which they consider will be useful in connection with some estate which they have either actually purchased, or are in treaty for.

Persons desiring to sell untenanted land to the Commission should in the first instance apply to the Commission by letter containing full particulars of the lands proposed to be sold and the price suggested. See Rule 8 of Rules of 23rd October 1903, *post* p. 482.*

Practice.

(*a*) The foregoing provisions of this Act. See Section 2 (*ante* p. 8), which provides for the sale to tenants and others of untenanted portions of estates.

9.—(1) There shall not be at any time vested in the Land Commission lands exceeding in the aggregate, according to the estimate

Limitations on spending powers of Land Commission.

* See Addenda.

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of the Commission, as approved by the Treasury, the capital value of five million pounds in respect of which undertakings to purchase have not been received by the Commission.

(2) The Land Commission shall not in any one year enter into agreements involving the expenditure, on the purpose of congested estates, of sums which would in the aggregate exceed by more than ten per cent. the aggregate sums for which the Commission estimate that those estates can be resold by them: Provided that, for the purposes of this enactment, any money which the Land Commission have expended, or propose to expend, on the improvement of those estates shall be deemed to be repayable in full out of the purchase money on resales, and shall not be included in the estimate in calculating the ten per cent.

(3) For the purposes of this Section the acceptance by the Land Judge of an offer shall be deemed an agreement.

Exclusion of certain estates.

10. No estate shall be purchased by the Land Commission (*a*) which is not in the main agricultural or pastoral (*b*).

(*a*) As to purchase of estates by the Land Commission, see Sections 6 and 7 (*ante* pp. 16, 20).

(*b*) **Agricultural or pastoral.**—In *King-Harman's Estate*, 38 I. L. T. R. 102, the Estates Commissioners contemplated purchasing under Section 6 an estate which comprised untenanted land, demesne land, and town tenancies, and the question was raised as to whether in the event of their doing so the bonus would be payable. MEREDITH, J., decided that it would, and in giving judgment (at page 104) said: "An estate purchased under Section 6 may include demesne lands, untenanted lands, or town tenancies. The limitation which the Estates Commissioners may not disregard is the limitation contained in Section 10—that no estate shall be purchased by the Land Commission which is not in the main agricultural or pastoral." *

Whether non-agricultural holdings can be purchased.

It does not seem very clear whether in the case of sales from landlords to tenants under the Purchase Acts there is anything to prevent a non-agricultural holding from being sold. The Act of 1870 is the first of the Land Purchase Acts, and Section 71 of that Act declares that it shall not apply to any holding which is not agricultural or pastoral in its character, or partly agricultural and partly pastoral; and that the term "holding" shall include all land of the above character held by the same tenant of the same landlord for the same term and under the same contract of tenancy. Section 29 (4) of the Act of 1881 provides that any sale of a holding to a tenant by a landlord in pursuance of Part V. of that Act, may be made either in pursuance of Part II. of the Act of 1870, or in such manner as the Land Commission may think expedient. Section 57 of the Act of 1881 defines "holding" as meaning a parcel of land held by a tenant of a landlord for the same term and under the same contract of tenancy, and this definition apparently takes the place of the definition of holding contained in the Act of 1870. Section 58 of the Act of 1881 declares that that Act, *with the exception of Part V. thereof*, shall not apply to *inter alia* any holding which is not agricultural or pastoral in its char-

* See Addenda.

acter, or partly agricultural and partly pastoral. Part V. of the Act of 1881 deals with Land Purchase, and Section 58 would therefore seem to imply that for purchase purposes it is immaterial whether a holding is agricultural or pastoral, or not. Section 14 (3) of the Act of 1887 provides that "Any person in occupation of and paying rent for a holding which is held under a contract of tenancy shall have power to enter into an agreement for the purchase thereof"; but that the interest of the tenant purchaser shall be subject to any equities affecting his previous interest in the holding. This Section appears, however, to be pointed at the class of persons who can buy rather than the class of holdings which can be purchased. None of the subsequent Purchase Acts appear to contain any provision bearing upon the point, with the exception of Section 11 of the Act of 1891, which, although it appears to contemplate advances being made in respect of agricultural and pastoral holdings only, contains no specific enactment on the point. The form of inspector's report (Form 11 in Rules of August 1891) appears to be applicable to agricultural and pastoral holdings only, but Rule 16, which prescribed the use of the form, directed the inspector to report "in Form 11 or as near thereto as circumstances will permit." Section 40, Sub-section (1) of the Act of 1896 (which deals with the offering of estates to the tenants by the Land Judge) is expressly limited by its terms to holdings which are agricultural or pastoral, or partly agricultural and partly pastoral. The fact that it contains such an express limitation raises the presumption that, but for the limitation, it would apply to a more extensive class of holdings. In any case, there seems to be no doubt but that town-parks, demesne lands, lettings for the purpose of pasture, &c., are not excluded from the Land Purchase Acts (Cherry's "Irish Land Acts," 3rd edit., p. 585). The Land Commission have hitherto refused to make advances in respect of non-agricultural holdings, but, as pointed out above, there appears to be no reason why they should not make advances in such cases if they desire to do so. The policy of the Act of 1903 is to sell every estate in the country if possible, and the Section now being noted provides for the sale of estates to the Land Commission which are in part of a non-agricultural character. This would afford a good argument in favour of applications for advances in respect of small non-agricultural portions of estates which are being sold direct by landlords to tenants.* Non-agricultural holdings are excluded from the fair rent provisions of the Land Law Acts, also from participation in the benefits conferred upon tenants by the Act of 1870, and a great number of cases have been decided as to what are, and what are not, agricultural holdings. In the majority of cases in which holdings have been held not to be agricultural, they have been excluded on the grounds of being residential holdings, but several have also been excluded as being mill holdings, shops (having land attached), &c. A very full collection of these cases will be found in Cherry's "Irish Land Acts," 3rd edition, p. 519.*

As to guarantee deposit.

11. No guarantee deposit shall be made or retained in respect of an advance made in pursuance of the foregoing provisions of this Act.

Prior to the Act of 1903 the Land Commission generally retained what was known as a "guarantee deposit," in the case of any holding where they considered the security for the advance doubtful. The guarantee deposit was provided either by the retention of portion of the purchase money, or

* See Addenda.

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by a payment in cash to the Commission. The Commission had power to retain the deposit until a portion of the purchase money equivalent to the amount of the deposit was repaid to them, and, so long as it remained under their control, they were entitled to make the deposit liable for instalments of the purchase annuity which had fallen into arrear, provided that the other means at their disposal for recovery of instalments had been exhausted without obtaining payment. When the term for which the deposit was retained had expired, or where, under Section 29 of the Act of 1896, the Land Commission were authorised to release the deposit, it was paid out to the persons entitled thereto. As to payment out under the said Section 29, see notes to Section 68, *post* p. 147. For the future no guarantee deposits are to be retained in respect of advances made under the foregoing provisions of the Act of 1903. As to sales under the other provisions of the Land Purchase Acts, see note (*a*) to Section 23, *post* p. 77. As to the powers of the Land Commission to apportion guarantee deposits retained under the old system where a holding is sub-divided, see Section 67, *post* p. 146.

As to the powers of the Land Commission to pay out guarantee deposits retained under the old system, see Section 68, *post*, p. 147.

The Sections of the Land Purchase Acts dealing with guarantee deposits are Sections 2, 3, 4, 5, 10, 11, 12, and 13 of the Act of 1885; Sections 15, 23, and 24 of the Act of 1891; and Section 29 of the Act of 1896.

Provisions with respect to improvements.

12.—(1) The Land Commission may take such steps and execute, or cause to be executed, such works as may appear expedient for the benefit or improvement of estates, or untenanted land, purchased or proposed to be purchased under this Act, or for the use or enjoyment thereof or generally for the purposes of this Act. (*a*)

(2) For the purpose of carrying this Section into effect the Land Commission shall have all the powers for facilitating resales of land conferred on the Congested Districts Board by Sections 1 and 2 of the Congested Districts Board (Ireland) Act, 1901, as amended by this Act, and those Sections, as so amended, shall apply accordingly, with the substitution of the Land Commission for the Congested Districts Board (*b*):

Edw. 7, c. 34.

Provided that where, with the consent of a tenant, the area of his holding is altered, or he is put into possession of a new holding, the Land Commission may order that such charges, liabilities, and equities as affect the tenant's interest in his former holding shall either continue to affect that holding, or be transferred to his altered or new holding (*c*):

Provided also, that the powers mentioned in Section 1 of the said Act of 1901 shall not be exercised by the Land Commission unless they certify to the Lord Lieutenant that those powers are necessary for the benefit or improvement of a congested estate. (*d*)

Whether Sect. applies to sale to tenants.

(*a*) It does not seem clear whether this Sub-section applies to estates sold direct to the tenants, or only to estates and untenanted land purchased by the Land Commission. The words of the Sub-section are very wide, and under it the Land Commission would seem to have power to advance money

for draining and reclaiming land, and for rebuilding existing buildings or erecting new ones; indeed, it would even appear to authorise the advance of money for the purpose of restocking evicted farms. One of the principal objects of the Section is to provide for the evicted tenants, and it may therefore be considered that it authorises the Land Commission to buy out the present tenants of evicted farms with a view to reinstating the tenants who had been evicted therefrom. As to the funds placed at the disposal of the Land Commission for the purpose of this Section, see 43, *post* p. 93.*

What improvements authorised.

Buying out occupying tenants.

As to the insurance of buildings erected or improved under this Section, see Section 66, *post* p. 146.

(*b*) Sub-section (2) apparently only applies to estates purchased by the Land Commission, upon whom very extensive powers are conferred by the incorporation of Sections 1 and 2 of the Congested Districts Board (Ireland) Act, 1901.—Section 1 of that Act, as amended by Section 82 of the Act of 1903, gives the following powers to the Land Commission:—

Sub-sect. (2) only applies to sales to L. C.

Power of L. C. to remove occupiers to make way for evicted tenants.

(A.) Where tenants on any townland on the estate to the extent of not less than three-fourths in number and rateable value so request, the Land Commission may serve a notice on any tenant thereon which shall have the effect of determining his tenancy in his holding as from the date mentioned in the notice, not being less than six months from the service thereof.

(B.) Every such notice shall contain an undertaking by the Land Commission that they will within the period mentioned in that behalf in the notice, or so soon thereafter as practicable, provide the tenant with a new holding on the same or an adjacent or neighbouring estate, subject to a rent not exceeding that payable by him for his original holding, and of not less value in respect of the land comprised in the new holding and the buildings and improvements thereon than the value of the land comprised in the former holding, and the buildings and improvements thereon respectively at the date of the purchase of the estate by the Land Commission.

(C.) If any such tenant is dissatisfied with his new holding, or refuses to enter into possession thereof, he may, within four months after he has been served with a notice stating that the Land Commission are prepared forthwith to put him into possession thereof, apply to the County Court within the jurisdiction of which the estate is situate, and that Court may, subject to rules of Court, hear and decide upon the application.

(D.) If, where the tenant is dissatisfied with the new holding, the Court decides that the value thereof is, in respect of any of the matters aforesaid, less than the value of the former holding, the Court may, after taking into account in connection with such inferiority in value the rent payable for the new holding, and every circumstance which the Court considers material, order such compensation as it may deem fit to be paid by the Land Commission to the tenant, and, in addition, or as an alternative, may order the Land Commission to erect such buildings, or make such other improvements on the holding as the Court may think reasonable.

(E.) Where a tenant refuses to enter into possession of the new holding, the Court may order the payment to him by the Land Commission of such sum as, in the opinion of the Court, is equal to the value of his interest in his former holding. For full text of Section 1, see Appendix B, *post* p. 221.

It must be remembered, however, that the foregoing powers cannot be exercised unless the Land Commission certify to the Lord Lieutenant that they are necessary for the benefit or improvement of a "congested estate." See proviso at end of Sub-section 2 of the Section now being noted.

Restriction on exercise of above powers.

* See Addenda.

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Provisional rules under the Congested Districts Board Act, 1901, were made on 24th February 1902, and will be found *post* p. 310.

Section 2 of the Congested Districts Board (Ireland) Act 1901 is as follows :—

Powers of L. C. to enter upon holding for mining, &c.

"The right to enter upon a holding during the continuance of a statutory term conferred on a landlord by Sub-section (5) of Section 5 of the Land Law (Ireland) Act, 1881, for the purposes therein specified, is hereby conferred on the Congested Districts Board, and any person authorised by them in that behalf, in respect of any holding not subject to a statutory term, which is situate upon land purchased by that Board; and for enforcing the right conferred by this Section the Board shall have the like remedies as in the case of a holding subject to a statutory term." Sub-section 5 of Section 5 of the Act of 1881 is as follows :—

"The landlord, or any person or persons authorised by him in that behalf (he or they making reasonable amends and satisfaction for any damage to be done or occasioned thereby), shall have the right to enter upon the holding for any of the purposes following (that is to say) :—

Mining.

"Mining or taking minerals, or digging or searching for minerals;

Quarrying.

"Quarrying or taking stone, marble, gravel, sand, brick-clay, fire-clay, or slate;

Timber and turf.

"Cutting or taking timber or turf, save timber and other trees planted by the tenant or his predecessors in title, or that may be necessary for ornament or shelter, and save also such turf as may be required for the use of the holding;

Making roads, fences, &c.

"Opening or making roads, fences, drains, and watercourses;

Right of passage.

"Passing and repassing to and from the seashore with or without horses and carriages for exercising any right of property or royal franchise belonging to the landlord;

Viewing holding.

"Viewing or examining at reasonable times the state of the holding, and all buildings or improvements thereon;

Sporting.

"Hunting, shooting, fishing, or taking game or fish, and if the landlord at the commencement of the statutory term so requires, then as between the landlord and tenant the right of shooting and taking game, and of fishing and taking fish shall belong exclusively to the landlord, subject to the provisions of the Ground Game Act, 1880, and the provisions of the Act twenty-seventh and twenty-eighth Victoria, chapter sixty-seven, shall extend where such right of shooting and taking game belongs exclusively to the landlord as though such exclusive right were reserved by the landlord to himself by deed. The word 'game' for the purposes of this Sub-section means hares, rabbits, pheasants, partridges, quails, landrails, grouse, woodcock, snipe, wild duck, widgeon, and teal; And the tenant shall not persistently obstruct the landlord, or any person or persons authorised by him in that behalf as aforesaid, in the exercise of any right conferred by this Sub-section.

"During the continuance of a statutory term, all mines and minerals, coals and coal-pits, subject to such rights in respect thereof as the tenant, under the contract of tenancy subsisting immediately before the commencement of the statutory term, was lawfully entitled to exercise, shall be deemed to be exclusively reserved to the landlord."

Powers only given for certain purposes.

It is to be observed that the Section now being noted only confers on the Land Commission "the powers *for facilitating resales of land* conferred on the Congested Districts Board by Sections 1 and 2 of the Congested Districts Board (Ireland) Act, 1901, as amended by this Act." It will be a question to be considered how far the powers given by Section 2 of the Congested

Districts Board Act, 1901, can be deemed to be "powers for facilitating resales of land."

The power of resuming possession of a holding for certain purposes, including purposes of migration or enlargement of holdings, which the Congested Districts Board have, by virtue of Section 5 (6) of the Act of 1881 as amended by Section 83 of the Act of 1903 is not apparently conferred upon the Land Commission.

Power of County Court to attach liabilities to new holding.

(*c*) The County Court have similar powers under Section 1 (6) of the Congested Districts Board Act, 1901 (See Appendix B, *post* p. 223), as amended by Section 82 (2) of the Act of 1903.

Powers only apply to congested estates.

(*d*) The power of removing occupiers of holdings to make way for the old evicted tenants thereof is very much restricted by this clause, as those powers can only be exercised in respect of Congested estates when the Land Commission have given the certificate mentioned in the Section. For definition of Congested Estates, see Section 6 (5), *ante* p. 16.

Provision with respect to sporting rights and minerals. 43 & 44 Vict. c. 47.

13.—(1) Where at the time of sale of any land to the Land Commission or to tenants or others the vendor has, subject to the provisions of the Ground Game Act, 1880, sporting rights, exclusive of the tenant, those rights may by agreement between the vendor and purchaser be either conveyed to the purchaser or be expressly reserved to the vendor, and in the absence of such agreement those rights shall be vested in the Land Commission, and the Land Commission may deal with the same, subject to regulations to be made by the Lord Lieutenant. (*a*)

(2) The expression "sporting rights" includes any right of hunting, shooting, fishing, and taking game or fish on any land, and the expression "game" has the same meaning as in Section five of the Act of 1881, and also includes deer. (*b*)

(3) On the sale under the Land Purchase Acts of any land by the Land Commission, or of any land comprised in an estate by the owner of the estate, there shall be reserved, in the prescribed manner, (*c*) to the Commission the exclusive right of mining and taking minerals, and digging and searching for minerals, on or under that land, and the said right shall be disposed of by the Commission in manner hereafter to be provided by Parliament:

Provided that this Sub-section shall not apply—

(*a*) to any demesne or other land resold in pursuance of Section three of this Act; or

(*b*) to any such right which constitutes a superior interest (*d*), or which is vested in the Crown; or

(*c*) to any stone, gravel, sand, or clay (*e*):

Provided also, that where any such right reserved to the Land Commission under this Sub-section is at any time hereafter let, leased, sold, or demised by them, the vendor (or the person who would have

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been entitled thereto if the lands had not been sold (*f*)) shall be entitled to receive twenty-five per cent. of any rent, purchase-money, or other net profit received by the Land Commission in respect of same, unless the Land Commission shall have purchased from the person entitled to such percentage his interest therein, and the Land Commission may purchase such interest at any time on such terms as may be sanctioned by the Treasury.

(4) Where any right mentioned in this Section is so reserved, there shall be attached thereto a right to enter upon the land in respect of which the first-mentioned right may be exercised, and to authorise any persons so to do; but any person entering upon land in pursuance of this Sub-section shall be liable to make reasonable amends and satisfaction for any damage done or occasioned thereby.

(5) Any person authorised by or in pursuance of the last preceding Sub-section to enter upon land for the purpose of exercising a sporting right shall have the same authority to prosecute for trespass in pursuit of game or fish as if he were the occupier of that land. (*g*)

Meaning of "exclusive of the tenant."

(*a*) This Sub-section is only applicable where the vendor has at the time of the sale sporting rights *exclusive of the tenant*, that is to say, where the vendor has sporting rights, and the tenant has none, or only has the right to hares and rabbits under the Ground Game Act, 1880. It is not necessary that the vendor should have the exclusive right; it is sufficient if the tenant does not share his right. In order to explain the circumstances under which the vendor may obtain sporting rights exclusive of the tenant, it will be convenient to give here a short history of the law dealing with those rights.

History of law of sporting rights.

In Ireland the right to game of every kind is vested first in the fee simple occupier or proprietor of land and by him transmitted to every successive occupant of the soil as incident to the interest or estate which he has in the land itself (Longfield's "Game Laws of Ireland" 2nd edit., p. 7). Whoever is the owner of the soil beneath a river not navigable is also entitled to the exclusive fishery in the superincumbent water (Patterson's "Fishery Laws," p. 49), and this right is transmitted by him to the successive occupants of the land.

Landlord has no right to game unless same reserved.

No landlord has a right to sport over his tenant's ground, no matter what the tenancy may be, without his consent either given for the time only or by a stipulation in the lease, which he cannot afterwards retract (Longfield, p. 11).

It has been settled by several decisions that the ordinary exception or reservation of the rights of shooting in a lease executed by the tenant operates as a grant by him to his landlord and not as a retainer by the latter of such right. The ordinary reservation in common farming leases runs in nearly the following words: "Saving and reserving to the said (lessor) his heirs executors administrators and assigns full and free liberty of hunting, hawking, fishing and fowling on the said premises." When such words are used the landlord has merely a *concurrent*, and not the *exclusive* right to shoot, &c., on the tenant's lands. Well-drawn leases give to the landlord in express terms "the sole and exclusive right to all the game, and of hunting, shooting, &c., on the demised premises." (Longfield, pp. 12 and 13.)

Ordinary reservation in lease does not give exclusive right.

It was decided in *Irvine* v. *Osborne*, 25 I. L. T. R. 36, that a reservation

in a lease of "all game" will give the lessor an exclusive right to the game on the demised premises.

Prior to the statutes dealing with such rights (the first of which was the Ground Game Act, 1880) the law appears therefore to have been as follows:—

Summary of law prior to Ground Game Act.

1. In the absence of express stipulation the occupier of land, holding under a contract of tenancy of any kind, had the exclusive right to the game, as between him and his immediate landlord.

2. If, however, the immediate landlord held in turn from a superior landlord, and the latter reserved the exclusive, or a concurrent right of sporting, then the occupier could only acquire a right equal to the right enjoyed by his immediate landlord.

3. If the contract of tenancy, under which the occupier held, reserved the exclusive right, then the occupier had no sporting rights.

4. If the contract of tenancy excepted the game in the words used in common farming leases as quoted above, then the occupier and his immediate landlord had concurrent sporting rights.

Provisions of Ground Game Act, 1880.

The Ground Game Act, 1880 (43 & 44 Vict. c. 47), Section 1, provides that every occupier of land shall have, as incident to and inseparable from his occupation of the land, the right to kill and take ground game (*i.e.* hares and rabbits) thereon, concurrently with any other person who may be entitled to kill and take ground game on the same land. The Section contains a number of provisions as to the persons to whom the right of taking ground game may be delegated by the occupier, as to what constitutes an occupier, and as to the limitation of the right in respect of moorlands, and unenclosed lands.

Section 3 makes void any agreement by the occupier to divest himself of the right to ground game.

Section 5 provides that where at the date of the passing of the Act the right to kill and take ground game on any land is vested by lease, contract of tenancy, or other contract *bona fide* made for valuable consideration in some person other than the occupier, the occupier shall not be entitled under the Act, until the determination of that contract, to kill and take ground game on such land. The Section further provides that for the purpose of the Act a tenancy from year to year, or a tenancy at will, shall be deemed to determine at the time when such tenancy would by law become determinable if notice or warning to determine the same were given at the date of the passing of the Act; and that nothing in the Act shall affect any special right of killing or taking ground game to which any person other than the landlord, lessor, or occupier may have become entitled before the passing of the Act by virtue of any franchise, charter, or Act of Parliament. (For text of Sections 1, 3, and 5, see Appendix B, *post* p. 179.)

Reservation of game by judicial order.

Section 5 (5) of the Act of 1881 provides that during the continuance of a statutory term, the landlord (making reasonable satisfaction for any damage occasioned thereby) shall have the right to enter upon the holding for the purpose of hunting, shooting, fishing, or taking game, or fish, and that, if the landlord at the commencement of the statutory term so requires, then as between the landlord and tenant the right of shooting and taking game, and of fishing and taking fish shall belong exclusively to the landlord, subject to the provisions of the Ground Game Act, 1880, and that the provisions of 27 & 28 Vict. c. 67 shall extend where such right of shooting and taking game belongs exclusively to the landlord as though such exclusive right were reserved by the landlord to himself by deed. The Sub-section further provides that, for the purposes of the Sub-section, the word "game" shall mean hares, rabbits, pheasants, partridges, quails, landrails, grouse,

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Prosecutions by owner of game not in occupation.

woodcock, snipe, wild-duck, widgeon, and teal. For full text of Section, see Appendix B, *post* p. 184.

Section 1 of 27 & 28 Vict. c. 67 provides that where a landlord has reserved to himself by deed or writing the exclusive right to game on any land, he shall for the purpose of prosecuting for trespass in pursuit of game be deemed the occupier of such land. The definition of game in 27 & 28 Vict. c. 67 does not include rabbits, but includes heath or moor game and black game, which are not mentioned in the definition in the Act of 1881. Heath and moor game, however, appear to be the same thing as grouse (Longfield's "Game Laws of Ireland," 2nd edition, p. 3).

When game rights not mentioned in judicial order.

Apparently where a fair rent is fixed under the Act of 1881 and the exclusive sporting rights are *not* reserved by the order, the landlord and tenant have concurrent rights.

It was decided in *Irvine* v. *Osborne*, 25 I. L. T. R. 36, that a reservation of game in a lease is a condition which attaches to a statutory tenancy created under the Act of 1887.

How exclusive right may be acquired.

A landlord will have the exclusive right, as between himself and the tenant, in the following cases:—

1. Where the exclusive right is reserved to the landlord by the tenant's lease.

2. Where under Section 5 of the Act of 1881 the exclusive right is reserved to the landlord at the commencement of the statutory term.

3. Where the exclusive right is conveyed by deed to the landlord by the tenant

Purchase of exclusive right by vendor.

If the landlord has not, at the time he commences to negotiate with his tenants, acquired the exclusive right by one of the foregoing methods, and if he wishes to reserve that right to himself on the sale, he must, *prior to the sale*, get the tenants to convey their rights to him. Of course, it will only be necessary to obtain conveyances from those tenants over whose holdings he has not the exclusive right.

The right of sporting being an incorporeal hereditament cannot be assigned except by deed (Furlong's "Landlord and Tenant," vol. i. p. 350), and the conveyance to the landlord must therefore be made by a deed of grant. A form of deed of grant will be found in Appendix C, *post* p. 224.

Where the vendor has sporting rights exclusive of the tenants, and neither reserves them nor agrees to convey them to the tenants, those rights become vested in the Land Commission, who may deal with the same, subject to regulations to be made by the Lord Lieutenant. Where the tenants have sporting rights, those rights remain vested in them, and do not pass to the Land Commission. A landlord's sporting rights, which are *not* exclusive of the tenant's, do not apparently in any case vest in the Land Commission.

Tenant's rights preserved.

It was decided by MEREDITH, J., in *Bandon's Estate*, 38 I. L. T. R. 160, that it is permissible under the Section for the vendor to reserve the sporting rights to himself for life, without the right to assign or sub-let; such rights on his death to become vested in the tenants.

The same judge held in *Devereux' Estate*, 38 I. L. T. R. 162, that it is permissible under the Section for the vendor to reserve the sporting rights to himself for life, or for the term of ten years, whichever should last the longest; such rights on the determination of that period to become vested in the tenants.

Head landlord's rights.

As explained above, it often happens that the head landlord, from whom the immediate landlord holds, has concurrent sporting rights, and in some cases the exclusive right. Section 99 of the Act of 1903 provides that nothing in the Act shall affect any sporting rights which are not in the pos-

session or enjoyment of the vendor at the time of the sale, and this Section is no doubt intended to preserve a head landlord's rights. Inasmuch, however, as orders vesting holdings in tenants are not made under the Act of 1903, it becomes necessary to consider how the law stood upon the point previously to that Act.*

Section 31 (1) of the Act of 1896 provides that sales under the Land Purchase Acts shall be made discharged from all superior interests or from any of them, and the land shall be vested accordingly in the purchaser in fee simple, and such superior interests, or the value thereof, shall become a lien upon, and be redeemed or satisfied out of the purchase money of such land.

Sub-section (2) provides that a vesting order shall be subject to such exceptions and reservations as are specified in the order, if they were contained in the agreement for purchase or subsequently agreed to by the vendor and purchaser and have been approved by the Land Commission, and the Land Commission are satisfied that the effect of such exceptions and reservations was explained to and understood by the purchaser, or the purchaser is represented by a solicitor other than the solicitor of the vendor. (For full text of Section 31, see Appendix B, *post* p. 214.)

In *Herbert's Estate* [1897], 1 I. R. 476, Ross, J., held that a sale under Section 40 of the Act of 1896 might be made reserving all mines, quarries, royalties, and rights of fishing and fowling to the head landlord from whom the lands were held under fee farm grant; these rights being reserved to him by the grant. In the case of the *Trustees of the Congested Districts Board*, 35 I. L. T. R. 122, the Land Commission (Commissioner LYNCH *diss.*) sanctioned the reservation of game and sporting rights to the Board on the resale of an estate which had formerly belonged to Viscount Dillon to whom the sporting rights had been reserved. MEREDITH, J., in that case said, "the Act of 1896, Section 31 (2), makes it clear beyond doubt that we have power to make exceptions and reservations as to game. We have power to make the vesting order subject to those reservations."

In *Owens' Estate* (No. 3) [1900], 1 I. R. 151, the provisions of Section 31 were considered in connection with the redemption of an annuity which Ross, J., had decided to be a superior interest, and one which he was bound by the provisions of Section 31 to redeem. The Court of Appeal (FITZGIBBON, L. J., *diss.*) held that the annuity in question was a superior interest, and that it had been properly ordered to be redeemed, but some difference of opinion was expressed as to how far Section 31 made the redemption of all superior interests compulsory. LORD ASHBOURNE, C., in his judgment (pp. 156, 157) said: "Speaking generally, I think the first Sub-section of the Section to be compulsory, but I do not regard it to be necessary to discuss, for the purposes of this case, how far any discretion may conceivably be exercised under it by the Land Commission or the Land Judge. They cannot be expected to order redemption when it is practically impossible. It is also urged that some of the language of the Sub-section indicates

* Since the above notes were written, MEREDITH, J., has decided in *Macnaghten's Estate*, 38 I. L. T. R. 222, that sporting rights which are not in the possession or enjoyment of the vendor at the time of the sale cannot be compulsorily redeemed, and he appeared to think that such rights would continue to attach to the holdings after they had been vested in the purchasers. It does not, however, seem clear from the judgment, whether the Court was of opinion that the effect of an order vesting a holding in a tenant is so modified by the Act of 1903, that it is no longer effectual to discharge the holding from sporting rights which constitute a superior interest. Furthermore, it does not seem to have been decided whether, if the owner of the purchase money consents to the sporting rights attaching thereto, he can require them to be compulsorily redeemed contrary to the wish of the owner thereof.

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a desire to vest some power of discrimination. Thus it is enacted that the land shall be discharged from all superior interests or 'from any of them.' The statement of the 3rd Sub-section, that its power shall be exercised 'in such manner as shall appear equitable,' and the conferring in the 4th Sub-section of the powers of the 16th Section of the Act of 1887 on the Land Judge, go to show that the 31st Section of the Act, taken as a whole, whilst compulsory in important particulars, was steadily preserving a discretion, at all events, for some purposes." FITZGIBBON, L. J., said (at p. 165): "I acquit the framers of the Act of 1896 of the consequences of the compulsory construction which is now sought to be put upon Section 31, which, for the reasons I have given, I believe to be unwarranted by either the words or the policy of the Act, and to be as mischievous in its consequences as it is impracticable in its operation."

WALKER, L. J., said (at p. 170): "I do not consider that Judge ROSS had any discretion in the matter. If he had, and exercised it, we should not interfere with his order, but I am of opinion that he was bound in law to make the order which he did." HOLMES, L. J., said (pp. 177, 178): "For these reasons, therefore, first because Mr. Justice ROSS was bound by the Statute to make the order to redeem, and, secondly, even if the Statute is not mandatory, he ought, in the exercise of a sound judicial discretion, to have made it—I hold that the appeal ought to be dismissed."

In *Tottenham's Estate*, 38 I. L. T. R. 190, the question at issue was whether in a sale under Section 7 the game rights should be reserved. ROSS, J., although he did not reserve them, held that he had power to do so, and that the Acts of 1896 and 1903 did not cut away the powers of the Court under the Incumbered Estates Court Act to dispose of an estate in whatever way it thinks proper, and to make reservations where necessary.

It seems tolerably clear therefore that in the case of sales direct to the tenants, sporting rights belonging to a head landlord may be reserved provided that the reservation is (A) agreed to by the tenants, (B) approved by the Land Commission, and (C) stated in the vesting order.*

Head landlord's rights in sales to L. C.

Sales to the Land Commission are not in altogether the same position as sales direct to the tenants, as the effect of the order vesting the estate in the Land Commission has also to be considered. †

Section 16 (1) (*post* p. 50) provides that such a vesting order shall be effectual to vest in the Commission the fee simple of the land purchased subject:—

(*a*) to any public rights affecting the land;

(*b*) to any sporting rights reserved by the vendor;

(*c*) to any maintenance charge under the Public Works Acts; and

(*d*) to any interests of the tenants on the land, or of persons having claims upon those interests, and to any easements, rights, and appurtenances mentioned in Section 34 of the Act of 1896; but save, as aforesaid, . . . discharged from the claims of all persons who are interested in the land, whether in respect of superior or intervening interests or incumbrances or otherwise, and all such claims shall, as from the date of the vesting order, cease as against the land and attach to the purchase money in like manner as immediately before the date of the order they attached to the land.

It is clear that the only words in the above Sub-section which could by any possibility preserve a head landlord's sporting rights would be the words "easements, rights, and appurtenances mentioned in Section 34 of the Act of 1896." It is thought, however, that these words were never

* See Addenda. † See footnote, *ante* p. 41.

intended to apply to sporting rights which would constitute a "superior interest," superior interests being so fully dealt with by Section 31 of the Act of 1896. (The text of Section 34 of the Act of 1896 will be found in Appendix B, *post* p. 217.) Therefore, apparently if Section 16 (1) of the Act of 1903 stood alone, the effect of an order vesting land in the Commission would be to destroy these rights. Section 99 (*post* p. 162) however provides that nothing in the Act shall affect any sporting rights which are not in the possession or enjoyment of the vendor at the time of sale, and this Section would seem to preserve the head landlord's rights as against the lands after they have become vested in the Land Commission. When the Commission however commence to make orders vesting the land in the tenants, the head landlord's rights can apparently only be preserved in the manner indicated above in the case of sales direct to the tenants.

Where it is desired to preserve a head landlord's sporting rights, the order providing for the redemption of the rent payable to him should, of course, be drawn so as to exclude those rights from the superior interests which are being redeemed.

Definition of "game."

(*b*) For the definition of "game" given in the Act of 1881 see note (*a*) *ante* p. 39. It is to be observed that for the purposes of the Act of 1903 the word "game" includes deer, but a landlord does not acquire any right to deer under Section 5 of the Act of 1881. *Query*, can he be said, when claiming the game under that Section, to have "sporting rights exclusive of the tenant"?

(*c*) **Prescribed manner.**—See Rule 21 of Rules of 23rd October 1903, *post* p. 484.

Head landlord's mining rights.

(*d*) **To any such right which constitutes a superior interest.**—For definition of superior interest, see note (*d*) to Section 7, *ante* p. 25. Where the lands for sale are held under a lease or fee farm grant by which the mineral rights are reserved, those rights will constitute a superior interest, and will not be affected by the Section, that is to say, they will not become vested in the Land Commission. They will therefore either pass to the tenants or remain the property of the superior landlord.

When dealing with the question of a head landlord's sporting rights under this Section, the power of reserving such rights was fully considered. A head landlord's mining rights appear to be in the same position and capable of being reserved in a similar way. Such rights can accordingly, it is conceived, be reserved, provided that the reservation is, (A) agreed to by the tenants, (B) approved by the Land Commission, and, (C) stated in the vesting order.* The order providing for redemption of the head rent should, of course, be drawn so as to exclude the mining rights from the superior interests which are being redeemed.

Reservation of.

Section 99 provides that nothing in the Act shall affect any mineral rights which are not in the possession or enjoyment of the vendor at the time of sale, but, as explained above, vesting orders are not made under the Act of 1903, but under the law existing prior thereto. Therefore, unless

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* Since the above notes were written, MEREDITH, J., has decided in *Macnaghten's Estate*, 38 I. L. T. R. 222, that mineral rights which are not in the possession or enjoyment of the vendor at the time of the sale cannot be compulsorily redeemed, and he appeared to think that such rights would continue to attach to the holdings after they had been vested in the purchasers. It does not, however, seem clear from the judgment, whether the Court was of opinion that the effect of an order vesting a holding in a tenant is so modified by the Act of 1903, that it is no longer effectual to discharge the holding from mining rights which constitute a superior interest. Furthermore, it does not seem to have been decided whether, if the owner of the purchase money consents to the mineral rights attaching thereto, he can require them to be compulsorily redeemed contrary to the wish of the owner thereof.

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the head landlord's rights are expressly reserved, they will apparently become vested in the tenants.

(*e*) **Any stone, gravel, sand, or clay.**—These are not to become vested in the Land Commission, but will pass to the tenant, it being considered that the tenant should have the power of working these minerals for the improvement of his holding.

Open mines and quarries.

There is a fourth exception to the rule, that the minerals are to be reserved to the Land Commission, created by Section 99, which declares that nothing in the Act shall affect any mine or quarry which is being worked or developed by the vendor at the time of sale. Open mines and quarries can apparently be reserved to the vendor in the same way as minerals can be reserved to the head landlord, but in the absence of such reservation they would seem to become vested in the tenants. In *Prior Wandesford's Estate* (38 I. L. T. R. 168), MEREDITH, J., decided that where seams of coal underlay the entire property of the vendor, and were being worked at the time of sale from old shafts sunk from time to time on different parts of the estate, the case came within Section 99 (*b*) of the Act, and the mineral rights under the entire estate might be reserved.*

For the rights of landlords and tenants respectively in regard to mines, see Sections 26, 27, 28, 32, and 33 of the Landlord and Tenant (Ireland) Act, 1860, Section 14 of the Landlord and Tenant (Ireland) Act, 1870, Section 3 of the Notice to Quit (Ireland) Act, 1876, and Section 5 of the Land Law (Ireland) Act, 1881.

Devolution of right to percentage of mining rents.

(*f*) **The person who would have been entitled thereto if the lands had not been sold.**—These words are likely to give rise to difficulty in cases where the vendor dies before the mining rights are leased or sold. The person who would have been entitled to the mining rights if the lands had not been sold, would be the person who would have been the owner of the lands if unsold. A vendor who has sold his estates will not of course make any provision in his will about those estates, and therefore such estates if unsold would pass to his residuary legatee or devisee, if any.; if none, to his heir-at-law, or his next-of-kin, according to the tenure of the estates. It does not appear open to a vendor to leave his interest in the mining rights to any one, because those rights are not to belong to the person nominated by the vendor, but to the person who would have been entitled to the estates. It would seem to meet the case if the vendor were to name the person whom he wishes to enjoy the mining rights, his residuary devisee or legatee, as the case may be. If not only the vendor is dead, but also his immediate successors, before the rights are leased or sold, the difficulty of ascertaining who is entitled to the percentage will of course be greatly increased. In the case of settled property where the devolution of the estate is provided for, for some time to come, the difficulty is not so likely to arise.

(*g*) The object of this Sub-section is to ensure that persons who are neither the occupiers nor the landlords of land, but who are entitled to the sporting rights, shall be in a position to prosecute for trespass in pursuit of game.

Old law as to prosecutions for trespass.

Prior to 27 Geo. III. c. 35 there was no power to prosecute for trespass in pursuit of game, the only remedy being the ordinary Common Law Civil Action for trespass maintainable by the occupier. The 27 Geo. III. c. 35 provided that no person should enter upon the land of any other person to look for game, and that every person offending should for each offence forfeit a sum not exceeding £10 (Sect. 10); but the offence was not constituted unless the trespasser was provided with some implement for taking game (Sect. 11).

* See Addenda.

Section 19 provides that offences against the Act "may be inquired into and determined either by the oath or oaths of one or more credible witness or witnesses, or by the confession of the parties accused before one or more of His Majesty's Justices of the Peace for any County, County of a City, or County of a Town where the offence shall be committed."

Under this Act, and under the practice existing at Petty Sessions, it seems that the prosecution can be maintained either by the occupier as prosecutor or by any member of the public as a common informer. It was decided in *Bruce* App. *M'Allister* Resp. (8 L. R. I. 195) that a landlord to whom the game had not been reserved could prosecute under the above Act as one of the public. When, however, a landlord desired to prosecute for trespass in pursuit of game, the common practice appears to have been to bring the action in the occupier's name, but this was a very inconvenient practice, the tenant often being unwilling to lend his name to the prosecution, which might, perhaps, be brought against friends of his own. (See Longfield's "Game Laws of Ireland," 2nd edition, pp. 59, 62.) To remedy this state of affairs, 27 & 28 Vict. c. 67 was passed. Section 1 of that Act provides that where the landlord or lessor of any land has reserved to himself by any deed or writing the exclusive right to the game on such land, then such landlord or lessor for the purpose of prosecuting for trespass in pursuit of game shall be deemed the legal occupier of the land.

It was decided in *Hope* v. *Callaghan*, 24 I. L. T. R. 5, that although rabbits are not included in the definition of game in 27 & 28 Vict. c. 67, still as they come within the definition of game in the Act of 1881, a landlord to whom the game rights are exclusively reserved by a judicial order can prosecute for trespass in pursuit of rabbits under 27 Geo. III. c. 35 and 27 & 28 Vict. c. 67. But to come within 27 & 28 Vict. c. 67 the complainant must not only have the right to game, but must also be "lessor or landlord" of the lands, and *as such* have the right to game. See Judgment of PALLES, C. B., in *Powell* v. *Castletown*, 30 L. R. Ir. at p. 99.

Section 7 of the Ground Game Act, 1880 (43 & 44 Vict. c. 47), provides that where a person who is not in occupation of land has the sole right of killing game thereon (except the right of killing ground game conferred by the Act on the occupier), such person shall for the purpose of any Act authorising the institution of legal proceedings by the owner of any exclusive right to game, have the same authority to institute such proceedings as if he were such exclusive owner. Section 5 (5) of the Act of 1881, after providing for the reservation of game to the landlord at the commencement of the statutory term, proceeds to declare that the provisions of 27 & 28 Vict. c. 67 shall extend where such right of shooting and taking game belongs exclusively to the landlord as though such exclusive right were reserved by the landlord to himself by deed.

Right of L. C. to prosecute.

The Sub-section now being noted gives to the person to whom a sporting right *is reserved* under the Section the same right to prosecute as if he were the occupier; *query*, will this confer upon the Land Commission, when sporting rights become vested in them, power to prosecute for trespass in pursuit of game; can the sporting rights be said to be "reserved" to the Commission?

Prosecutions for poaching fish.

The right of prosecuting persons for poaching fish depends upon the provisions of 5 & 6 Vict. c. 106 and 24 & 25 Vict. c. 96, Section 24, which are somewhat dissimilar to the provisions of the Act relating to game—the principal distinction being that fish prosecutions can be brought by persons who are neither the owners nor the occupiers of the lands (Patterson's "Fishery Laws," p. 77). This being so, the provisions of the Sub-

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section now being noted appear to be of little importance as regards such prosecutions.

Reservation of ancient monuments.

14.—(1) Where any land, which is vested under the Land Purchase Acts in a purchaser, contains any ancient monument which, in the opinion of the Land Commission, is a matter of public interest, by reason of the historic, traditional, or artistic interest attaching thereto, they may, with the consent of the Commissioners of Public Works in Ireland, by order declare that the property in the monument shall not pass to the purchaser, and make an order vesting the monument in those Commissioners.

45 & 46 Vict. c. 73.

(2) Where any such order is made, the provisions of the Ancient Monuments Protection Act, 1882, with respect to the maintenance of, and access and penalties for injury to, ancient monuments, shall apply as if the monument were a monument under the guardianship of those Commissioners in pursuance of that Act. (*a*)

61 & 62 Vict. c. 37.

(3) Where those Commissioners refuse to consent to the vesting of any such monument in them, the Land Commission may, with the consent of the council of the county within which the monument is situate, make an order vesting the monument in that council, and Sub-section two of Section nineteen of the Local Government (Ireland) Act, 1898, shall thereupon apply. (*b*)

(4) In this Section the expression "ancient monument" means any ancient or mediæval structure, erection, or monument, or any remains thereof.

(*a*) The Ancient Monuments Protection Act, 1882, provides that the owner of an ancient monument may by deed appoint the Commissioners of Public Works the guardians thereof; or may give or devise such monument to them by deed or will. The Act further provides for the maintenance and preservation of the monument by the Commissioners and for the recovery by them of penalties for injuries thereto.

(*b*) Section 19 (2) of the Local Government (Ireland) Act, 1898, is as follows. "The provisions of Section eleven of the said Act" (*i.e.* the Ancient Monuments Protection Act of 1882) "('defining ancient monuments to which this Act applies') and Section one of the Ancient Monuments Protection (Ireland) Act, 1892, shall have effect as if they were herein re-enacted, with the substitution of 'County Council' for 'Commissioners of Works'; but this enactment shall be in addition to and not in derogation of the existing provisions of the said Sections as respects the Commissioners of Works."

That part of the Ancient Monuments Protection Act of 1882, which defines ancient monuments, provides that "The expression 'ancient monuments to which this Act applies' means the monuments described in the schedule hereto, and any other monuments of a like character of which the Commissioners of Works at the request of the owners thereof may consent to become guardians; and 'ancient monument' includes the site of such monument and such portion of land adjoining the same as may be required to fence, cover in, or otherwise preserve from injury the monument standing on such site, also the means of access to such monument."

The Act contains a schedule specifying the particular monuments to which it applies.

Section 1 of the Ancient Monuments Protection (Ireland) Act, 1892, provides that "where the Commissioners of Works are of opinion that the preservation of any ancient or mediæval structure, erection, or monument, or of any remains thereof, is a matter of public interest by reason of the historic, traditional, or artistic interest attaching thereto, they may at the request of the owner consent to become the guardians thereof; and thereupon the Ancient Monuments Protection Act, 1882, shall apply. . . ."

The effect of Section 19 (2) of the Local Government Act, 1898, does not seem very clear, but it is stated in Vanston's "Law of Local Government in Ireland," vol. i. p. 25, that it enables a county council, at the request of the owners, to consent to become the guardians of certain ancient and mediæval structures and monuments as defined by Section 1 of the Act of 1892, and that thereupon the Act of 1882 applies to such structures and monuments as if they were ancient monuments as defined in that Act.

An application to have an ancient monument, dealt with under the provisions of the Section now being noted, may be made by the vendor or purchaser, or by any public body or association interested in the preservation of same. (See Rule 35 of Rules of 23rd October 1903, *post* p. 488.)

Sub-tenancies and sub-divided holdings.

15.—(1) In the case of the sale of an estate the Land Commission may, if they think fit, declare that any person who, as a sub-tenant, is in the exclusive occupation of a parcel of land comprised in the estate shall be deemed the tenant of that parcel, and that the parcel shall be deemed a holding.

(2) The Land Commission shall, in such case, redeem the interests (in this Part of this Act referred to as "intervening interests") intervening between the owner of the estate and the person in such exclusive occupation as aforesaid, at a price which, in default of agreement between the owner of the estate and the owner of the intervening interest within the prescribed time, (*a*) shall be fixed by the Land Commission, and the redemption money shall be paid out of the purchase money of the estate, and be dealt with in like manner as if it were the redemption money of a superior interest, (*b*) or in such other manner as appears to the Commission equitable: Provided that if the Land Commission are of opinion that any intervening interest is of no appreciable value, (*c*) they shall by order declare that interest to be extinguished.

(3) The foregoing provisions of this Section shall not apply where any intervening interest is an interest sufficient to constitute the owner thereof a person having power to sell under the Land Purchase Acts (*d*) to tenants.

(4) Where a holding comprised in any such estate is held by joint tenants or tenants in common, or is subdivided between two or more persons, (*e*) and the Land Commission are satisfied that such tenants or persons are in the exclusive occupation of separate portions

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thereof, the Commission may, if they think fit, for the purpose of the foregoing provisions of this Act, declare that any such tenant or person shall be deemed the tenant of the parcel of land in his exclusive occupation, and that such parcel shall be deemed a holding, and may apportion the rent of the holding between such tenants or persons as the justice of the case may require. (*f*)

(5) Any person aggrieved by any decision of the Land Commission under this Section may in the prescribed manner (*g*) appeal to a Judicial Commissioner.

(6) For the purpose of the sale of an estate by the Land Judge to the Land Commission, the Land Judge shall have the powers conferred on the Commission by this Section, but no appeal shall lie from any decision of the Land Judge under this Section. (*h*)

As explained in the Notes to Section 1 (*ante* p. 4), sales under the Land Purchase Acts can only be made to the tenants in actual occupation of the lands. Accordingly, where any of the tenants of the vendor had their holdings sub-let, sales could not formerly have been effected unless some arrangement was come to, by which the vendor's immediate tenants allowed their sub-tenants to purchase. The earlier portion of the Section now being noted is intended to meet this difficulty. (See remarks of MEREDITH, J., in *King Harman's Estate*, (No. 2), 38 I. L. T. R. 237.) Its first three Sub-sections will prove of assistance in those cases in which the immediate tenant of the vendor has *the entire holding* sub-let, and will in such cases enable the vendor to negotiate with the tenants in occupation without consulting his own immediate tenant. The interest of the immediate tenant will be thus squeezed out, and he will be entitled to receive in lieu thereof such compensation as, in default of agreement between him and the vendor, may be awarded to him by the Estates Commissioners. Where, however, *portion only* of the immediate tenant's holding is sub-let, there appears to be a difficulty in applying the provisions of the Section, because although there is power to declare the sub-let portion to be a holding, there is no power conferred by the Section of fixing the proportion of the immediate tenant's rent which is to be payable out of the part of the holding remaining in his occupation. Sub-section (4) apparently only applies to persons holding directly from the estate. It seems just possible that Section 72 of the Landed Estates Court Act, incorporated by Section 10 of the Act of 1885, or Section 40 of the Act of 1870, incorporated by Section 38 of the Act of 1881 (see Appendix B, *post* p. 188) might enable the Court to make such an apportionment, but if this be not so, then the matter can only be arranged by consent.

Sect. only applies where *entire* holding sub-let.

The point is of no importance where a landlord sells direct to his tenants, because in such case no individual tenant can be compelled to buy against his will. Where, however, the Land Commission is the vendor, this is not so, and, inasmuch as there is often difficulty in getting an immediate tenant and his sub-tenants to come to terms, it would be convenient to have some method of arranging the matter on a fair basis without consulting them. If this method can be found in the present Section, and the Sections above referred to, coupled with the provisions of Section 19, it might often afford a means of getting over a difficulty in sales by the Land Commission to the tenants.

(*a*) **Prescribed time.**—See Rules 26, 27, and 28 of Rules of 23rd October 1903, *post* p. 486.

(*b*) **As if it were the redemption money of a superior interest.**—As to redemption money of superior interests, see Section 63, *post* p. 137.

(*c*) **Of no appreciable value.**—This proviso is very similar to the proviso in Section 31 (5) of the Act of 1896, as to which see Appendix B, *post* p. 215.

(*d*) **Persons having power to sell under the Land Purchase Acts.**—As to what is a sufficient interest to enable a person to sell under the Land Purchase Acts, see notes to Section 17, *post* p. 53. It is to be observed that the Section is not applicable where the immediate tenant holds in fee farm, or for a term of which sixty years are unexpired, or for any of the other interests which would enable him to sell under the Land Purchase Acts. The result of this is that the convenient method of procedure prescribed by the Section cannot be adopted in such cases, but recourse must be had to the methods in use prior to the Act of 1903. Under the former practice, where it was ascertained that a purchasing tenant had a sub-tenant under him, the Land Commission (unless the sub-letting was of a trivial character, as to which see note (*e*) to Section 1, *ante* p. 4) required the sub-tenant to be made a direct tenant to the estate. This could only be carried out by an arrangement between the parties under which the tenant gave up his interest in the sub-tenant's holding, and permitted him to become a direct tenant to the estate. If the immediate tenant had part only of this holding sub-let, he at the same time entered into a new agreement in respect of the portion in his own occupation. It was often difficult to get the tenants to come to a reasonable arrangement, and these difficulties are apparently still liable to arise where the direct tenant holds for such a period as is above mentioned.

(*e*) **Or is subdivided between two or more persons.**—These words were no doubt inserted in order to meet the decision in *Riversdale* v. *Gethins* [1899], 2 I. R. 81, in which case it was held that the words "joint tenants or tenants in common" in Section 5 (3) of the Act of 1896 must receive a strictly legal construction, and that that Sub-section did not apply where a holding had been sub-divided between a number of tenants who had not and never had any privity of estate, title, possession, occupation or interest. Section 5 (3) of the Act of 1896 is amended by Section 91 of the Act of 1903. See that Section, *post* p. 157.

Power of apportioning rents, &c., in Act 1885.

(*f*) Somewhat similar powers to those contained in this Sub-section are given by Section 11 of the Act of 1885, which provides that "Where land to be sold under this Act is held by tenants in common, or rundale, or intermixed plots, it shall be lawful for the Land Commission, upon the application of either landlord or tenant, or if it shall seem expedient to the said Land Commission, to make orders for the partition, exchange, or division of such land, and the provisions of the seventy-ninth to the eighty-second Sections inclusive of the Landed Estates Court Act shall apply to such partitions, exchanges, and divisions."

Section 79 of the Landed Estates Court Act provides that where any land or lease to be sold under the Act is subject to any tenancy under which the tenants hold jointly, the Court may on the application of any such tenant, and after such notice and inquiries as it shall think fit, and after hearing such parties as may apply to it, make an order under its seal for the partition as between such tenants of the land included in their tenancy, and for the apportionment of the rent reserved under such tenancy. The Section also contains provisions preserving the landlord's rights against the respective portions of the holding, and providing for the continuance of the

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covenants in the contract of tenancy. (For text of Sections 79 to 82, see Appendix B, *post* p. 175.)

There is also a power of apportionment given to the Land Commission by Section 40 of the Act of 1870, which provides that the Court shall have full power to apportion charges, rents and covenants. This Section is incorporated in the Act of 1881 by Section 38 thereof. For text of these Sections, see Appendix B, *post* pp. 178 and 188.

(*g*) **Prescribed manner.**—See Rule 28 of Rules of 23rd October 1903, *post* p. 486.

Land Judge's powers under Section.

(*h*) The powers conferred by the Section upon the Land Judge are only exercisable by him when he sells to the Land Commission under the provisions of Section 7 (*ante* p. 20). He cannot exercise these powers when he sells direct to the tenants under Section 4 of the Act of 1885 or Section 40 of the Act of 1896.

Purchase agreement and vesting order.

16.—(1) The Land Commission may, where they agree to purchase any land, (*a*) make a vesting order which shall be effectual to vest in the Commission the fee simple of the land purchased, subject—

(*a*) to any public rights affecting the land;
(*b*) to any sporting rights reserved by the vendor;
(*c*) to any maintenance charge under the Public Works Acts; (*b*) and
(*d*) to any interests of the tenants on the land, or of persons having claims upon those interests, and to any easements, rights, and appurtenances mentioned in Section thirty-four of the Act of 1896; (*c*)

but, save as aforesaid, (*d*) and subject to the provisions of this Act with respect to minerals, (*e*) discharged from the claims of all persons who are interested in the land, whether in respect of superior or intervening interests or incumbrances or otherwise, and all such claims shall, as from the date of the vesting order, cease as against the land and attach to the purchase money in like manner as immediately before the date of the order they attached to the land. (*f*)

(2) At any time not less than two months before making a vesting order under this Section the Land Commission shall publish the prescribed advertisements, and shall serve such notices as they may think necessary stating their intention to make the order and the effect thereof, and any person interested in the land may, in the manner and within the time prescribed, show cause against the vesting order being made, and in such case unless the cause shown is disallowed the order shall not be made. (*g*)

(3) A certified copy of every vesting order under this Section shall be transmitted to the registering authority under the Local

Registration of Title (Ireland) Act, 1891, and the Land Commission shall thereupon be registered under that Act as the absolute owners of the land, discharged from all claims as hereinbefore provided.

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54 & 55 Vict. c. 66.

The provisions of the Section now being noted are very similar to the provisions of the previous Acts relative to orders vesting holdings in tenants, and it may be convenient to consider here the effect of such vesting orders.

Effect of order vesting holding in tenant.

The effect of a vesting order vesting a holding in a tenant is to confer upon such tenant the absolute fee simple in the holding free from all estates, rights, titles, and incumbrances of the Crown and all other persons (Sect. 8, Act 1885, and Sect. 61 Landed Estates Court Act) save as follows. The holding will be subject to :—

1. Such charges as may be mentioned in the order (Sect. 8, Act 1885).

2. If the order declares that the holding shall be subject to such charges as may lawfully affect it, then subject to such charges (Sect. 8, Act 1885). But now, since the Act of 1896 (see Sect. 31, Appendix B, *post* p. 214), it seems that such a declaration cannot be inserted in a vesting order.

3. Such rent-charges in lieu of tithes, Crown rents and quit rents as may affect the holding and have not been redeemed (Sect. 9, Act 1885, and Sect. 62, Landed Estates Court Act).

4. Such drainage charges under 5 & 6 Vict. c. 89 and the Acts amending the same, and such charges under 10 & 11 Vict. c. 32 as may affect the holding and have not been redeemed (Sect. 9, Act 1885, and Sect. 62 Landed Estates Court Act).

5. Such exceptions and reservations as are specified in the order, if they were contained in the agreement for purchase or subsequently agreed to by the vendor and purchaser, and have been approved by the Land Commission, and the Land Commission are satisfied that the effect of such exceptions and reservations was explained to and understood by the purchaser, or the purchaser is represented by a solicitor other than the solicitor of the vendor (Sect. 31 (2), Act 1896).*

6. Section 34 of the Act of 1896 provides that—

(1) "A holding vested in a purchaser by a vesting order under this Act shall continue to have appurtenant thereto and to be subject to, as the case may be, any previously existing easements rights and appurtenances; and any privilege previously in fact enjoyed, whether by permission of the landlord or otherwise, in such manner and for such time that, if the holding had belonged to a different owner from the rest of the estate, it would have been an easement or right, shall be an easement or right within the meaning of this Section, and shall be appurtenant to or exercisable over the holding, as the case may be.

(2) "The vesting order may, if the Land Commission think fit, declare that the sale is made subject to or free from any particular easement, right, or appurtenance, and such declaration shall have full effect."

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* Since the above notes were written, MEREDITH, J., has decided in *Macnaghten's Estate* (38 I. L. T. R. 222) that sporting rights which are not in the possession or enjoyment of the vendor at the time of the sale cannot be compulsorily redeemed, and he appeared to think that such rights would continue to attach to the holdings after they had been vested in the tenants. It does not, however, seem clear from the judgment whether the Court was of opinion that the effect of an order vesting a holding in a tenant is so modified by the Act of 1903 that it is no longer effectual to discharge the holding from sporting rights which constitute a superior interest. (See Addenda.)

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Graft on tenant's interest.

But the interest vested in the purchaser by the vesting order is deemed to be a graft upon the previous interest of the tenant in the holding, and is subject to any rights or equities arising from its being such graft (Sect. 8, Act 1885, and Sect. 14 (3), Act 1887). The result of this is that the interest vested in the purchaser is subject to all the charges and trusts that affected the tenant's interest prior to the purchase.

The text of the Sections above referred to will be found in Appendix B, *post* pp. 171, 172, 201, 202, 204, 215, 217.

Effect of vesting order on land not comprised in holding.

It must be borne in mind when seeking to establish a title to lands conveyed by a vesting order, that the order, besides containing a description of the lands, refers to them as "the hereditaments comprised in the holding . . . in the occupation of the purchasing tenant," and therefore if the description includes lands which did not form part of the holding, the order will not apparently vest such lands in the purchaser. See *Quin* v. *Hewson*, 26 I. L. T. and S. J. 534, in which the lands in dispute were included in a map endorsed on the vesting order, but had not formed portion of the holding. JOHNSTON, J., in that case held that they did not pass under the vesting order.

(*a*) **Purchase any land.**—The Land Commission can purchase land under Sections 3, 6, 7, and 8, but where they purchase under Section 7 the land is vested in them by an order of the Land Judge (see Sect. 7 (5), *ante* p. 21).

(*b*) **Public Works Act.**—For definition of, see Section 98, *post* p. 159.*

(*c*) **Section thirty-four of the Act of 1896.**—For text of Section, see Appendix B, *post* p. 217.

(*d*) This Section appears to be qualified by Section 99 (*post* p. 162).*

(*e*) **Subject to the provisions of this Act with respect to minerals.**—See Section 13 (3) and Section 99, pp. 37 and 162.

(*f*) Compare Section 9 (5), Act 1885, Section 14 (1), Act 1887, and Section 31 (1), Act 1896. See Appendix B, *post* pp. 202, 203, 214.

(*g*) See Rules 29 and 30 of Rules of 23rd October 1903, *post* p. 487.

Persons whom Land Commission may deal with as owners.

17.—(1) Where any person proposing to sell land under the foregoing provisions of this Act gives *primâ facie* evidence that he is a person having power to sell under the Land Purchase Acts, (*a*) and satisfies the Land Commission that for not less than six years immediately preceding he or his immediate predecessor in title has been, personally or by an agent, in receipt of the rents or profits of the land, he may, if the Land Commission think fit, subject to such conditions with respect to advertisements and notices as may be prescribed, (*b*) be dealt with as the owner of the land for all purposes other than the distribution of purchase money, or the payment of any percentage out of the Land Purchase Aid Fund (*c*) established under this Act, without any further investigation of his title.

(2) Where any person not under disability satisfies the Land Commission that he is the limited owner (*d*) of any land, he may, if the Land Commission think fit, be dealt with as the owner of the land for the purposes aforesaid, whether there is or is not a trustee of

* See Addenda.

the settlement for the purposes of the Settled Land Acts, 1882 to 1890, (*e*) and whether the consent of such trustee (if any) has or has not been obtained.

General effect of Section.

The object of this Section is not to dispense with the necessity of showing title, but merely to postpone the time at which strict title must be shown. The effect of it is to enable the land to be vested in the tenants at an early stage of the proceedings, but the purchase money cannot be distributed until the title thereto has been fully proved.

The *primâ facie* title which the Estates Commissioners require to be furnished to them is not such a mere matter of form as some people suppose. The reader will find this question dealt with in the notes to Section 23, *post* p. 78.

It might at first sight appear that two different sets of conditions were applicable to absolute owners and limited owners respectively, and that the conditions under which the former might sell were contained in Sub-section 1, whilst the latter need only comply with the conditions prescribed by Sub-section (2). This, however, is apparently not the case; all owners, both absolute and limited, must comply with the terms of Sub-section (1). Sub-section (2) merely provides that in the case of limited owners not under disability, the absence of Settled Land Act trustees, or the absence of their consent, as the case may be, is no bar to the sale taking place.

(*a*) Persons having power to sell under the Land Purchase Acts.

In order to ascertain what persons are entitled to sell under the Land Purchase Acts, it is necessary to refer to a number of Sections of various Acts. In the following pages all the Sections bearing upon the point have been either set out or referred to, and the result is necessarily somewhat confusing. The reader who has no particular concern in ascertaining how the powers of sale of the different classes of limited owners have been acquired is referred to the list of such owners at p. 59.

Act of 1870.

Section 32 of the Act of 1870 provides as follows:—

"Subject to the restrictions hereinafter mentioned, the landlord and tenant of any holding in Ireland may agree for the sale of the holding to the tenant at such price as may be fixed between them."

Section 33 of the same Act is as follows:—

"No sale shall be made under this part of this Act unless the landlord is the absolute owner of the land which forms the holding of the tenant, or such tenant for life or other limited owner as is in this Section mentioned.

Definition of "absolute owner."

"'Absolute owner' shall, in the case of freehold land, mean the owner in fee simple or in fee farm, or person capable of appointing or disposing of the fee, whether subject or not to incumbrances, and in the case of leasehold land mean the owner or person capable of disposing of the whole interest in the lease under which the land is held, whether subject or not to incumbrances.

What leasehold interests can be sold.

"No holding of leasehold tenure shall be sold under this part of this Act unless the lease under which the landlord is possessed of the land which forms the holding is a lease for lives or years renewable for ever, or a lease for a term of years of which not less than sixty are unexpired at the time of the sale being made; and no sale shall be made under this part of this Act by a landlord being the owner of a leasehold under a lease containing a prohibition against alienation unless such prohibition has determined or is waived.

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Definition of "tenant for life."

"'Tenant for life' shall, for the purposes of this part of this Act, mean any person entitled under any existing or future settlement at law or in equity for his own benefit and for the term of his own life to the possession or receipt of the rents and profit of land, whether subject or not to incumbrances, in which the estate for the time being, subject to the trusts of the settlement, is an estate in fee simple or fee farm, or a lease of such duration as is in this Section mentioned.

Trustees for charities, &c.

"'Other limited owner' shall mean any body corporate, any trustees for charities, and any commissioners or trustees for collegiate or other public purposes, having an estate in fee simple or fee farm, or possessed of such leasehold as is in this Section mentioned, whether subject or not to incumbrances."

Non-alienation clause in leases.

So much of Section 33 as prohibits a sale where the lease contains a non-alienation clause is repealed by Section 70 of the Act of 1903 (see that Section, *post* p. 148).

Under Act 1870 purchase money distributed by L. E. Court.

In the case of sales under the Act of 1870 the purchase money was distributed by the Landed Estates Court, and if the money was not immediately distributable, it could be lodged either in Court or in a Bank and invested, and the income applied as directed by the Court. (Sect. 37, Act of 1870.)

Act of 1881.

Under Act 1881 purchase money distributed under L. C. C. Acts.

By the Act of 1881 a new principle was introduced, and, where a sale was made by a limited owner, as defined by Section 26 of the Act of 1870, the Lands Clauses Consolidation Acts applied, and the purchase money, if exceeding £200, was paid into the Court of Chancery and title thereto made there.

Sales by limited owners to tenants.

Section 25 of the Act of 1881 provided that a landlord of a holding, being a limited owner as defined by Section 26 of the Landlord and Tenant (Ireland) Act, 1870, might, subject to the provisions of the Lands Clauses Consolidation Acts, sell the holding to the tenant, and might permit up to one-fourth of the purchase money to remain as a mortgage on the holding, such mortgage to be deemed part of the purchase money or compensation payable in respect of the purchase of the holding, and to be dealt with accordingly in manner provided by the Lands Clauses Consolidation Acts. For full text of this Section, see Appendix B, *post* p. 186.

Section 26 of the Act of 1870 is as follows:—

Definition of "limited owner."

"The expression 'limited owner' shall in this Act mean as follows:—

Tenants for life.

"(1) Any person entitled under any existing or future settlement at law or in equity, for his own benefit and for the term of his own life, to the possession or receipt of the rents and profits of land, whether subject or not to incumbrances, in which the estate for the time being subject to the trusts of the settlement is an estate for lives or years renewable for ever, or is an estate renewable for a term of not less than sixty years, or is an estate for a term of years of which not less than sixty are unexpired, or is a greater estate than any of the foregoing estates:

Trustees for charities, &c.

"(2) Any body corporate, any corporation sole, ecclesiastical, or lay, any trustees for charities, and any commissioners or trustees for ecclesiastical, collegiate, or other public purposes, entitled at law or in equity, in the case of freehold land, to an estate in fee simple or fee farm, and in the case of leasehold land to a lease for an unexpired residue of not less than thirty-one years, or for a term of years or of lives renewable for ever, or renewable for a period of not less than thirty-one years."

It will be observed that this definition of limited owner is somewhat fuller than that contained in Section 33 of the Act of 1870, and that any body corporate, &c., can sell a leasehold of which there are thirty-one years to run, or which is renewable for a period of thirty-one years.

Section 26 of the Act of 1881 (which is repealed almost *in toto* by the schedule to the Act of 1903) provides for the sale of estates to the Land Commission, and Section 29 of the same Act provides as follows :—

What leaseholds can be sold to L. C.

"(1.) The Land Commission shall not purchase a leasehold estate under this part of this Act, unless the lease is for lives or years renewable for ever, or is for a term of years of which not less than sixty are unexpired at the time when the sale is made, or unless the Land Commission have purchased some greater right or interest in the estate in which the leasehold would be merged:

"Provided that :—

"(*a*) This part of this Act shall not empower the owner of a leasehold holding under a lease containing a prohibition against alienation to sell such leasehold unless such prohibition is determined or is waived ; and

"(*b*) Nothing in this Section shall prevent the purchase of an estate by reason only of a small part thereof being leasehold.

Sales by trustees for charities and other limited owners to L. C.

"(2.) Any body corporate, public company, trustees for charities, commissioners or trustees for collegiate or other public purposes, or any person having a limited interest in an estate or any right or interest therein, may sell the same to the Land Commission, and for the purpose of purchase by the Land Commission of any estate or any right or interest therein the Lands Clauses Consolidation Acts (except so much as relates to the purchase of land otherwise than by agreement) shall be incorporated with this Act, and in construing those Acts for the purposes of this Section the 'special act' shall be construed to mean this Act, and 'the promoters of the undertaking' shall be construed to mean the Land Commission, and 'land' shall be construed to include any right or interest in land. . . ."

It should be noted that the list of persons having limited interests authorised by this Section to sell to the Land Commission varies somewhat from the list of limited owners, who are empowered by Section 25 to sell to their tenants.

Non-alienation clauses in leases.

So much of Section 29 as prohibits a sale where the lease contains a non-alienation clause is repealed by Section 70 of the Act of 1903 (see that Section, *post* p. 148).

The definition of tenant contained in Section 57 of the Act of 1881 is as follows :—

Definition of "tenant."

"'Tenant' means a person occupying land under a contract of tenancy, and includes the successors in title to a tenant."

The same Section contains the following definition of landlord :—

Definition of "landlord."

"'Landlord' means the immediate landlord or the person for the time being entitled to receive the rents and profits or take possession of the land held by his tenant, and includes the successors in title to a landlord."

Settled Land Act, 1882.

The powers of sale exercisable by limited owners are greatly extended by the Settled Land Act, 1882, some of whose leading provisions will now be noticed.

Sales by tenants for life.

Notice to trustees.

Section 3 provides that "A tenant for life may sell the settled land, or any part thereof, or any easement, right, or privilege of any kind, over or in relation to the same"; but Section 45 enacts that a tenant for life, when intending to make a sale, shall, one month prior to the sale, or to the contract for the same, give notice by registered letter to each of the trustees of the settlement and to the solicitor for the trustees. The Section further provides that at the date of the notice the number of trustees shall not be less than two, unless a contrary intention is expressed in the settlement. (For full text of Section, see Appendix B, *post* p. 193.) But under Section 5 of the Settled Land Act, 1884, the notice of intention to make a sale may

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be a notice of general intention in that behalf, and the trustees may waive notice either in any particular case, or generally, and may accept less than one month's notice. (For full text of Section, see Appendix B, *post* p. 199.) But notice to the solicitor for the trustees cannot apparently be waived; see Hood and Challis' "Conveyancing Acts," 6th edit., p. 318.

Necessity for trustees under S. L. A., 1882.

The reader will observe that a sale cannot be effected under the Settled Land Act, 1882, unless (there being no provision to the contrary in the settlement) there are at least two "trustees of the settlement." These trustees must be either trustees with power of sale, or having such powers with reference to a sale as are mentioned in Section 2 (8) of the Settled Land Act, 1882, and Section 16 of the Settled Land Act, 1890; as to which see Appendix B, *post* pp. 189 and 208. See also notes on p. 63 *post*.

Trustees dispensed with by Act, 1903.

Sub-section (2) of the Section now being noted dispenses with the necessity of having "trustees for the purpose of the Settled Land Acts," so far as the actual sale of the lands is concerned, but it still seems necessary to have these trustees for the purpose of distributing the purchase money.

Persons having powers of tenant for life.

Section 58 of the Settled Land Act, 1882, contains a list of the various persons who are by that Act authorised to exercise the powers of a tenant for life. The Section is as follows:—

"(1.) Each person as follows shall, when the estate or interest of each of them is in possession, have the powers of a tenant for life under this Act, as if each of them were a tenant for life as defined in this Act (namely):—

Tenants in tail.

"(i.) A tenant in tail, including a tenant in tail who is by Act of Parliament restrained from barring or defeating his estate tail, and although the reversion is in the Crown, and so that the exercise by him of his powers under this Act shall bind the Crown, but not including such a tenant in tail where the land in respect whereof he is so restrained was purchased with money provided by Parliament in consideration of public services:

Tenants in fee simple with limitation over.

"(ii.) A tenant in fee simple, with an executory limitation, gift or disposition over, on failure of his issue, or in any other event:

Owners of base fees.

"(iii.) A person entitled to a base fee, although the reversion is in the Crown, and so that the exercise by him of his powers under this Act shall bind the Crown:

Tenants for years determinable on life.

"(iv.) A tenant for years determinable on life, not holding merely under a lease at a rent:

Tenant *pur autre vie*.

"(v.) A tenant for the life of another, not holding merely under a lease at a rent:

Tenant for life with gift over.

"(vi.) A tenant for his own or any other life, or for years determinable on life, whose estate is liable to cease in any event during that life, whether by expiration of the estate, or by conditional limitation, or otherwise, or to be defeated by an executory limitation, gift, or disposition over, or is subject to a trust for accumulation of income for payment of debts or other purpose:

Tenant in tail after possibility of issue extinct.

"(vii.) A tenant in tail after possibility of issue extinct:

Tenant by curtesy.

"(viii.) A tenant by the curtesy:

Person entitled to income of land for life.

"(ix.) A person entitled to the income of land under a trust or direction for payment thereof to him during his own or any other life, whether subject to expenses of management or not, or until sale of the land, or until forfeiture of his interest therein on bankruptcy or other event.

"(2.) In every such case, the provisions of this Act referring to a tenant for life, either as conferring powers on him or otherwise, and to a settlement, and to settled land, shall extend to each of the persons aforesaid, and to the instrument under which his estate or interest arises, and to the land therein comprised.

"(3.) In any such case any reference in this Act to death as regards a

tenant for life shall, where necessary, be deemed to refer to the determination by death or otherwise of such estate or interest as last aforesaid."

(For definition of "Settlement," "Settled Land," "Tenant for life," &c., see Section 2 of Settled Land Act, 1882, and Section 4, Settled Land Act, 1890, Appendix B, *post* pp. 188, 207.)

Definition of "Settlement," &c.

Section 63 provides that any land which under any deed or other instrument is subject to a trust for sale, and for the application of the proceeds, or the income thereof, or the income of the land until sale, for the benefit of any person for life, or any limited period, shall be deemed to be settled land, and the instrument a settlement, and the person for the time being beneficially entitled to the income of the land until sale, tenant for life thereof. (For full text of Section, see Appendix B, *post* p. 196.) But the powers conferred by this Section are not to be exercised without the leave of the Court (see Section 7, Settled Land Act, 1884, Appendix B, *post* p. 200).*

Person entitled to income of land settled in trust for sale.

In the case of *In re Iever's Settlements* [1904], 1 I. R. 492, a person who had the powers of a tenant for life under Section 63 of the Settled Land Act, 1882, applied for liberty to sell under Section 7 of the Settled Land Act, 1884. The trustees of the Settlement opposed the application, and contended that they should be appointed to sell so as to capture the bonus for the benefit of the inheritance. BARTON, J., gave the tenant for life liberty to sell, and said that he did not think that the fact that he would get a benefit which the Legislature had expressed an intention of conferring upon him, was any reason for withholding the leave of the Court.

Act of 1885.

As mentioned above, under the Act of 1881, the purchase money was distributed under the provisions of the Lands Clauses Consolidation Acts. By the Act of 1885, a new system was introduced, and the purchase money made distributable by the Land Commission (see Sects. 8, 10, and 12 of the Act of 1885).

Purchase money made distributable by L. C.

Section 3 of the Act of 1885 provides that "Trustees entitled to receive the purchase money produced by the sale of any settled land, may, and shall if required by the tenant for life of the settled land, or the person having the powers of a tenant for life within the meaning of the Settled Land Act, 1882, secure, by a guarantee deposit, the repayment of an advance made for the purchase of any holding being or forming part of such settled land, and may apply or permit the Land Commission to retain so much of the purchase money as the trustees or such tenant for life or other person may think fit for that purpose."

Power to trustees to give guarantee deposits.

Section 4 of the Act of 1885 provides that—

"Where a holding is sold by the Land Judges to the tenant of that holding, the sale may, for the purpose of advances under this Act, and of guarantee deposits under this Act, be deemed to be a sale by a landlord to a tenant."

Sales by Land Judge to tenants.

Section 5 of the Act of 1885 provides in its first part for sales of estates and of individual holdings to the Land Commission, and for the purchase of holdings by tenants from their landlords. This first part of the Section is repealed by the Act of 1903, but the latter portion of it, which is unrepealed, runs as follows:—

"If the vendor of such estate or holding is a tenant for life, or has the powers of a tenant for life, and the land proposed to be sold is settled land, within the meaning of those expressions as used in the Settled Land Act, 1882, he shall have all the powers conferred upon tenants for life under that Act, subject to the amendments thereof herein contained and to the other

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provisions of this Act; and the purchase money arising from such sale may be invested or applied as if it were capital money arising under the said Act."

Power to tenants for life, &c., to give guarantee deposits.

Section 6 of the same Act is as follows:—

"Where a landlord of a holding is a tenant for life, or has the powers of a tenant for life, within the meaning of those expressions as used in the Settled Land Act, 1882, and is selling such holding to the tenant thereof, he may exercise, to the same extent as if he were an absolute owner, the power of permitting any sum not exceeding one-fourth of the purchase money to remain as a charge upon such holding secured by a mortgage; and in case any advance is made by the Land Commission to the tenant for the purchase of such holding, any such mortgage shall be subject to any charge in favour of the Land Commission for securing such advance; and any such mortgage shall be deemed to be part of the purchase money payable in respect of such holding, and the money secured thereby when paid shall be dealt with as if it were capital money arising under the Settled Land Act, 1882, or purchase money otherwise payable under this Act.

Like power to trustees.

"This Section shall apply to the trustees of any settlement in the same manner as it applies to a tenant for life."

Vesting orders where owner tenant for life only.

Section 9 (5) of the Act of 1885 provides that the Land Commission may make a vesting order "though the landlord is only tenant for life, or has the powers of a tenant for life, . . . but the purchase money shall, in all cases where the Court shall think fit, be paid into Court to abide the further order of the Court and shall, for all purposes as regards the rights or claims of any person to or against the estate sold, represent such estate." . . . . For text of Sub-section, see Appendix B, *post* p. 202.

Tenants in fee farm.

Section 26 of the Act of 1885 declares that "the expression 'tenant' shall include a tenant holding under a fee farm grant."

Act of 1887.

Payment of purchase money into Bank of Ireland.

Section 14 of the Act of 1887 provides that, when the Land Commission have agreed to make an advance, they may pay the amount thereof into the Bank of Ireland, and may by order declare that the claims of all persons interested in the land sold shall attach to the purchase money, and that the Land Commission shall determine the rights and priorities of such persons, and distribute the purchase money in accordance therewith, and that where the purchase money is not immediately distributable, the Land Commission shall either retain the same under their control, or deal with the same in the manner provided by the Settled Land Act, 1882, with respect to capital money arising under that Act.

Definition of "landlord."

Section 34 of the Act of 1887 declares that:—

"The word 'landlord' shall, for the purposes of sales to tenants under the Land Law (Ireland) Acts, include any person entitled to an estate as a trustee for sale, and any limited owner, as defined by Section 33 of the Landlord and Tenant (Ireland) Act, 1870."

Purchase of Land Amendment Act, 1889.

Tenants for life, &c.

Section 2 of the Purchase of Land Amendment Act, 1889 (which deals with purchase by tenants of additional land adjoining their holdings), is as follows:—

"Where the vendor is a tenant for life, or a person having the power of a tenant for life within the meaning of those expressions as used in the Settled Land Act, 1882, such vendor shall have all the powers given to the landlord by Section 6 of the Purchase of Land (Ireland) Act, 1885, and all the provisions of such Section shall apply to the sale."

"This Section shall apply to the trustees of a settlement in the same manner as it applies to a tenant for life."

Act of 1891.

Section 14 of the Act of 1891 runs as follows:—

"Any persons entitled to an estate as trustees for sale, or trustees with a power of sale, and any body corporate, trustees for charities, commissioners, or trustees for collegiate or other public purposes, shall have the same power of selling under the Land Purchase Acts, as amended by this Act, as if they were private individuals, subject nevertheless to the provisions of the said Acts respecting the disposal of the purchase money, and subject also to such consent (if any) as would be required in the case of a sale independently of the said Acts."

Trustees for charities, &c.

Section 2 of the Congested Districts Board Act, 1893, provides as follows :—

C. D. Board Act, 1893.

"The Congested Districts Board for Ireland may acquire land for the purposes of Part II. of the Purchase of Land (Ireland) Act, 1891, and of enlarging small holdings in a congested districts county, and shall be landlords of all lands so acquired within the meaning of the Land Purchase (Ireland) Acts, 1870 to 1891."

Sales by C. D. Board.

Section 40 (2) of the Act of 1896 is as follows :—

Act of 1896.

"Any person in occupation of and paying rent for a parcel of land (including the owner of an estate in occupation of a mansion house or demesne forming part of the estate) held under a letting by the Land Judge or Receiver Judge, may agree to purchase such parcel of land, and the same shall be deemed a holding, and such person a tenant, and the Land Judge or Receiver Judge, as the case may be, a landlord within the meaning of the Land Purchase Acts."

Sales by Land Judge to Court tenants.

Section 42 of the Act of 1896 reads as follows :—

"A mortgagee in possession with power of sale shall for all the purposes of the Land Purchase Acts be deemed to be a landlord." But no bonus is payable in respect of an estate sold by a mortgagee in possession (see Sect. 48 (4), Act of 1903, *post* p. 97).

Sales by mortgagees in possession.

Section 48 (1) of the Act of 1896 provides that in that Act—

"The expressions 'landlord' and 'tenant' include respectively the predecessors in title of a landlord or tenant.

Definition of "landlord" and "tenant."

"The expression 'limited owner' means a limited owner within the meaning of Section 26 of the Landlord and Tenant (Ireland) Act, 1870, and includes any person having the powers of a tenant for life under the Settled Land Acts, 1882 to 1890."

Definition of "limited owner."

There is not, however, any power of sale conferred on limited owners by the Act of 1896.

In *Ely's Estate* [1904], 1 I. R. 66, the question was discussed as to whether sales under the Land Purchase Acts by limited owners are carried out under the special provisions in those Acts, or under the powers conferred by the Settled Land Acts. Ross, J., in his judgment says: "It has been contended on behalf of the trustees that if he" (Lord ELY) "sells, it must be under the powers of the Settled Land Act. It has been contended, on the other hand, that the powers of sale in the Settled Land Act are merely supplementary to the powers of sale in the Land Purchase Acts. With this latter contention I am disposed to agree." *

Sales by limited owners are made under L. P. Acts as supplemented by S. L. Acts.

It may be gathered from the foregoing Sections that to entitle a person to sell under the provisions of the Land Purchase Acts he must be either the *absolute* or the *limited* owner of one of the following estates :—

1. An estate in fee simple (Sects. 26 and 33, Act of 1870, and Sect. 25, Act of 1881).

2. An estate in fee farm (Sects. 26 and 33, Act of 1870, and Sect. 25, Act of 1881).

Estates which can be sold under L. P. Acts.

* See Addenda.

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3. A leasehold interest consisting of either:—

(*a*) A lease for lives or years renewable for ever (Sects. 26 and 33, Act of 1870, and Sect. 25, Act of 1881); or,

(*b*) A lease for a term of years of which not less than sixty years are unexpired at the time of the sale, or which is renewable for a term of not less than sixty years (Sects. 26, and 33, Act of 1870, and Sect. 25, Act of 1881); or,

(*c*) In the case of sales by bodies corporate, trustees for charitable and public purposes, &c., a lease of which not less than thirty-one years are unexpired at the time of the sale, or which is renewable for a period of not less than thirty-one years (Sect. 26, Act of 1870, and Sect. 25, Act of 1881); or,

(*d*) In the case of sales to the Land Commission under the Act of 1881, estates held for even shorter terms than those above mentioned could apparently be sold, provided that the Land Commission had purchased some greater interests in such estates in which the leaseholds would have become merged, or that the leasehold portion of the estate formed only a small part thereof (Sect. 29, Act of 1881).

Non-alienation clauses in leases.

Prior to the Act of 1903 a leasehold could not be sold if the lease contained a prohibition against alienation (Sect. 33, Act of 1870, and Sect. 29, Act of 1881); but now by virtue of Section 70 of the Act of 1903 this is no longer the case.

Definition of "absolute owner."

An "absolute owner" in the case of freehold land means the owner in fee simple, or in fee farm, or person capable of appointing or disposing of the fee, whether subject or not to incumbrances.

An "absolute owner" in the case of leasehold land means the owner or person capable of disposing of the whole interest in the lease under which the land is held whether subject or not to incumbrances (Sect. 33, Act of 1870).

Limited owners who can sell.

Limited owners who can sell may be divided into the following classes:—

Tenants for life.

1. Tenants for life under Sections 26 and 33, Act of 1870, and Section 25, Act of 1881. A tenant for life for the purposes of these Sections means "any person entitled under any existing or future settlement at law or in equity for his own benefit and for the term of his own life to the possession or receipt of the rents and profits of land, whether subject or not to incumbrances."

Trustees for charities, &c.

2. Any body corporate, corporation sole, ecclesiastical, or lay, any trustees for charities and any commissioners or trustees for ecclesiastical collegiate or other public purposes (Sects. 26 and 33, Act of 1870, Sect. 25, Act of 1881, and Sect. 14, Act of 1891), but subject to the same consents as would be required in the case of a sale independently of the Land Purchase Acts (Sect. 14, Act of 1891).

Consents required by trustees for charities.

In *Finnegan's Estate* (MacC 29), O'HAGAN, J., held that trustees for charities could not make a valid sale unless:—

(*a*) They obtained the sanction of the Court of Chancery upon information filed, or by petition under Sir Samuel Romilly's Act (52 Geo. III. c. 101); or,

(*b*) They obtained the consent of the Commissioners of Charitable Donations and Bequests under Section 14 of 30 & 31 Vict. c. 54; or,

(*c*) They obtained the sanction of the Land Judges Court under Section 34 of the Act of 1870, which directs the Court to make certain inquiries before authorising a sale; or,

(*d*) They proceeded under the 25th Section of the Act of 1881, which adopts the provisions of the Lands Clauses Consolidation Acts, under which a valuation is made by two able, practical surveyors, and the purchase money, if exceeding £200, is paid into Court.

Trustees for charities, &c., sales to L. C. by.

3. The following are by Section 29 of the Act of 1881 authorised to sell to the Land Commission; viz., any body corporate, public company,

trustees for charities, commissioners or trustees for collegiate or other public purposes, or any person having a limited interest in an estate, or any right or interest therein. But the sale is apparently subject to obtaining the same consents as would be necessary in the case of a sale independently of the Land Purchase Acts (Sect. 14, Act of 1891).

Tenants for life under S. L. Act.

4. Tenants for life under Section 3 of the Settled Land Act, 1882.

Persons having powers of tenant for life.

5. The persons having the powers of a tenant for life under Section 58 of the Settled Land Act, 1882 (see that Section, *ante* p. 56).

Persons entitled to income of land for life.

6. Persons entitled for life or for any other limited period to the income of land settled upon trust for sale. (Sect. 63, Settled Land Act, 1882.) But the consent of the Court must be obtained (Sect. 7, Settled Land Act, 1884).

Trustees for sale.

7. Trustees for sale, and trustees with power of sale, but subject to the same consents as would be required in the case of a sale independently of the Land Purchase Acts (Sect. 34, Act of 1887, and Sect. 14, Act of 1891).

The following, although not coming within any of the definitions of "limited owner" contained in the Land Purchase Acts, have also power to sell thereunder.

The Land Judge.

8. The Land Judge (Sect. 4, Act of 1885, and Sect. 40 (2), Act of 1896, and see Order XXXVII. of Rules of March, 1897, *post* p. 409).

The C. D. Board.

9. The Congested Districts Board (Sect. 2, Congested Districts Board Act, 1893). *N.B.*—The Congested Districts Board might possibly have also power to sell as trustees for public purposes under Sections 26 and 33, Act of 1870, Section 25, Act of 1881, and Section 14, Act of 1891.

Mortgagees in possession.

10. A mortgagee in possession with power of sale (Sect. 42, Act of 1896).

PERSONS UNDER DISABILITY.

Where persons who would otherwise have had power to sell are under disability, sales can be effected by those who represent them as follows:—

Minors.

Powers of guardians under Act, 1870.

Section 61 of the Act of 1870 provides that the guardian of a minor may make such applications, give such consents, do such acts, and be party to such proceedings, as the minor might, if not under disability, have made, given, done, or been party to; and that where there is no guardian the Civil Bill Court may appoint a guardian for the purpose of any proceedings under Part IV. of the Act. (For text of Section, see Appendix B, *post* p. 179.)

Incorporation of Act, 1870, by Act, 1881.

Section 38 of the Act of 1881 provides that: "There shall be incorporated with this Act the following provisions of the Landlord and Tenant (Ireland) Act, 1870, as if the purposes therein referred to included the purposes of this Act, that is to say:—

"Section 61, containing provisions as to other persons under disability." (For text of Section, see Appendix B, *post* p. 179.)

Powers of guardians under Act, 1885.

Section 10 of the Act of 1885 provides that: "In every case in which a holding is sold by the Land Commission to a tenant or other person; also in every case in which a holding is sold by a landlord to a tenant, and it is agreed that such sale shall be carried into effect by a vesting order of the Land Commission, the Land Commission shall have the jurisdiction and powers which are vested in the Land Judges of the Chancery Division of the High Court by the following Sections of the Landed Estates Court Act, and those Sections shall be incorporated with this Act, as if the Land Commission were therein referred to, and as if the purposes of those Sections included the purposes of this Act, that is to say:—

"Section 73 relating to persons under disability."

Powers of guardians under L. E. Court Act.

Section 73 of the Landed Estates Court Act, 1858, provides that the

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guardian of a minor may make such applications, give such consents, do such acts, and be party to such proceedings, as the minor, if free from disability, might have made, given, done, or been party to; and that where there is no guardian, the Court may appoint a guardian for the purposes of any proceedings under the Act. (For text of Section, see Appendix B, *post* p. 175.)

Jurisdiction of Land Commission to appoint guardians.

In *Corr's Estate* (26 I. L. T. R. 139) an application was made to appoint a guardian to the minor heiress-at-law of a tenant who had died subsequently to signing his purchase agreement, but before the vesting of the holding. BEWLEY, J., on appeal, held that there was no jurisdiction to appoint a guardian, because the sale was to be carried out by conveyance and not by vesting order. The concluding words of his judgment are as follows: "I may add, however, that even if the agreement had provided that the sale should be carried out by a vesting order, and even if there were jurisdiction in such case to appoint a guardian, this is not a case in which the jurisdiction should be exercised. A guardian for the infant is required not merely to carry on the proceedings in the Land Commission, but to take a conveyance of the holding, and subsequently manage it for the benefit of the infant. The County Court appears to me to be the proper tribunal to appoint a guardian and take charge of the interests of the minor."

Infant owner deemed to be tenant for life.

Section 59 of the Settled Land Act, 1882, provides that: "Where a person who is in his own right seised of or entitled in possession to land is an infant, then for the purposes of this Act the land is settled land, and the infant shall be deemed tenant for life thereof."

Infant tenant for life.

Section 60 of the same Act is as follows:—

"Where a tenant for life, or a person having the powers of a tenant for life under this Act, is an infant, or an infant would, if he were of full age, be a tenant for life, or have the powers of a tenant for life under this Act, the powers of a tenant for life under this Act may be exercised on his behalf by the trustees of the settlement, and if there are none, then by such person and in such manner as the Court, on the application of a testamentary or other guardian or next friend of the infant, either generally or in a particular instance, orders."

Appointment of person to act for infant owner.

In *Greenville's Estate* (11 L. R. Ir. 138) the facts were as follows: An infant was absolute owner of an undivided share of land which it was desirable to sell. An application was made under Section 60 to appoint one of the other undivided owners to exercise the powers of a tenant for life on behalf of the infant. CHATTERTON, V. C., said that he thought the case came within Section 60; that although the infant was not tenant for life, yet by virtue of Section 59 he was to be deemed as having the powers of a tenant for life; that as there was no settlement, trustees thereof could not be appointed, and therefore the proper course was to appoint a person to exercise the powers of a tenant for life on behalf of the infant. He, however, refused to appoint a co-owner, who, he said, would not be a fit person to protect the interest of the infant. The application was subsequently renewed for the purpose of having an independent person appointed, when the order was made as sought; but the minor's share of the purchase money was directed to be lodged in Court.*

Infant can't sell unless trustees of settlement or some person to exercise his powers appointed.

The provision in Section 17 (2) of the Act of 1903 as to carrying out sales, although there are no trustees of the settlement, does not apply where the limited owner is under disability, and therefore a minor cannot apparently sell unless either (1) there are trustees of the settlement within the meaning of the Settled Land Acts, or (2) some person has been ap-

* See Addenda.

pointed to exercise the powers of a tenant for life on behalf of the infant. The powers conferred upon guardians by Section 61 of the Act of 1870 and Section 73 of the Landed Estates Court Act do not, it is conceived, confer upon such guardians a power to sell under the Land Purchase Acts. See *In re Lemon's Estate*, 19 L. R. I. 44, where MONROE, J., stated that the invariable practice of the Land Judges Court was not to entertain any petition by minors for the sale of their estate, even though incumbered, unless in the case of Wards in Chancery under the sanction of the Chancellor.

L. E. Court will not sell infant's estate.

Trustees for the purposes of the Settled Land Acts are the persons who under the settlement are :—

Who are "trustees for purposes of Settled Land Acts."

1. Trustees with power of sale of settled land ; or,

2. Trustees with power of consent to, or approval of the exercise of, such a power of sale ; or,

3. If there are no such trustees as aforesaid, then the persons who are by the settlement declared to be trustees for the purposes of the Settled Land Act (see Sect. 2 (8), Settled Land Act, 1882, Appendix B, *post* p. 189) ; or,

4. If there are no such trustees as aforesaid, then the persons, if any, who are for the time being under the settlement trustees with power of or upon trust for sale of any other land comprised in the settlement and subject to the same limitations as the land to be sold, or with power of consent to or approval of the exercise of such a power of sale : or,

5. If there are no such trustees as aforesaid, then the persons, if any, who are for the time being under the settlement trustees with future power of sale, or under a future trust for sale, of the land to be sold, or with power of consent to or approval of the exercise of such a future power of sale, and whether the power or trust takes effect in all events or not. (See Sect. 16, Settled Land Act, 1890, Appendix B, *post* p. 208.) *

Appointment of S. L. A. trustees.

If there are no trustees of the settlement for the purposes of the Settled Land Acts, they can be appointed either by deed or by the Court, according to the circumstances of the case.

(1.) By deed.

Such trustees can only be appointed *by deed* in those cases in which there have at one time been trustees of the settlement for the purposes of the Settled Land Acts. If this be so, then new trustees for the purposes aforesaid may be appointed under Section 10 of the Trustee Act, 1893, as supplemented by Section 47 of the same Act.

Section 10 (1) provides that where a trustee, either original or substituted, and whether appointed by a Court or otherwise, is dead, or remains out of the United Kingdom for more than twelve months, or desires to be discharged, or refuses or is unfit to act, or is incapable of acting, then the person nominated for the purpose by the instrument creating the trust, or if there is no such person able and willing to act, then the surviving or continuing trustees or trustee or the personal representatives of the last surviving or continuing trustee, may, by writing, appoint a new trustee or trustees. (For full text of Section 10, see Appendix B, *post* p. 212.)

Section 47 declares that the powers of the Act with reference to the appointment of new trustees are to apply to trustees for the purposes of the Settled Land Acts, whether appointed by the Court or under the settlement. (For full text of Section 47, see Appendix B, *post* p. 214.)

(2.) By the Court.

If there have never been any trustees of the settlement for the purposes of the Settled Land Acts, or if there have been such trustees, but there is no person forthcoming who is capable of exercising the powers of appointing trustees conferred by the settlement, or by Section 10 of the Trustee Act, 1893, then, application must be made to the Court to appoint trustees.

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Trustees for the purposes of the Settled Land Acts can be appointed either by the Court of Chancery or by the Land Commission, but it is conceived that the jurisdiction of the latter does not arise until proceedings for sale have actually been commenced; although it is unnecessary that any agreements for sale should have been entered into (Sect. 19 (3), Act, 1891). If trustees cannot be appointed by the Land Commission until the proceedings have commenced, and if there is no person competent to start proceedings on behalf of a minor till either trustees have been appointed, or some person has been nominated by the Court to exercise the powers of a tenant for life on behalf of the minor, then it is obvious that the assistance of the Court of Chancery must be invoked before proceedings in the Land Commission can be commenced. The application is made under Section 38 of the Settled Land Act, 1882, which provides that if there are no trustees of a settlement as defined by the Act, or where in any other case it is expedient, for the purposes of the Act, that trustees be appointed, the Court may, if it thinks fit, on the application of the tenant for life, or of any other person having, under the settlement, an estate or interest in the settled land, in possession, remainder, or otherwise, or, in the case of an infant, of his testamentary or other guardians, or next friend appoint fit persons to be trustees under the settlement for the purposes of the Act. (For full text of Section, see Appendix B, *post* p. 193.)

Procedure.

Applications under the Settled Land Acts are made under Order LXXII. of the Rules of the High Court (see Wylie's "Judicature Acts," edition of 1906, p. 973).

Since the passing of the Trustee Act, 1893, it would also seem possible to appoint Settled Land Act trustees under Section 25 of that Act, as Section 47 provides that all the powers and provisions contained in the Act with reference to the appointment of new trustees, are to apply to and include trustees for the purposes of the Settled Land Acts, whether appointed by the Court or under the settlement.

As to the power of the Land Commission to appoint trustees, see notes to Section 52, *post* p. 112.

Where there is no settlement a person should be appointed to represent infant.

Where an infant is absolute owner of the estate and there is no settlement of which trustees can be appointed, then the proper course is to apply to the Court of Chancery under Section 60 of the Settled Land Act, 1882, to appoint a person to exercise the powers of a tenant for life on behalf of the infant. See *Greenville's Estate*, referred to above.

Married Women.

Where a married woman desires to sell an estate it is necessary to consider whether she alone is capable of conveying the entire interest therein. This will depend upon the date of her marriage and the date at which she acquired the property.

There is a very clear and concise statement of the law on the point in Elphinstone's "Introduction to Conveyancing," fourth edition, pp. 295 *et seq.*, from which the following are extracts.*

First where the wife was married and her title accrued before 1st January 1883.

"*As to property not belonging to her for her separate use, either expressly or under the provisions of the Married Women's Property Act*, 1870.

Husband's interests in wife's freeholds.

"The husband becomes entitled on marriage to the rents and profits of her freeholds during the joint lives of himself and his wife, whether her

* These extracts are inserted by the kind permission of Messrs. Sweet & Maxwell, Ltd.

estate in the lands is legal or equitable; and he alone can convey the interest in the rents and profits. On the birth of issue who can by any possibility inherit, he becomes entitled, as tenant by the curtesy, to her freeholds of inheritance during his own life,* whether her interest is legal or equitable; subject to the qualification that, if the wife takes by descent, the husband must acquire seisin during her life." . . . "The husband and wife together can convey her freeholds, or any interest therein, whether legal or equitable, whether in possession or remainder, and whether vested or contingent, by deed acknowledged" under the Fines and Recoveries Act (Ireland), 1834 (4 & 5 Wm. IV. c. 92, s. 68), as modified by the Conveyancing Act, 1882, s. 7.

Husband's interests in wife's leaseholds.

"The wife's chattels real to which she is entitled in her own right (*i.e.* not as executrix or trustee), whether her interest is legal or equitable, vest in her husband *sub modo*. He can absolutely dispose of them; and that, even if her interest is reversionary, unless it be of such a nature that it cannot by any possibility vest in her during the coverture." . . . "He is entitled to the rents and profits of her chattels real during the joint lives of himself and his wife; but he cannot dispose of them by his will. If he survives his wife, they belong to him by survivorship, without taking out administration to her, and if he died in the wife's lifetime, without having disposed of them by act *inter vivos*, they vest absolutely in the wife."

As to the property forming her separate estate, either by express declaration, or the Married Women's Property Act, 1870.

Wife entitled to equitable estate.

"The husband takes during the wife's lifetime no equitable interest in property forming her separate estate; and she can dispose of her equitable interest in the property either by act *inter vivos*, or by will, exactly as if she were a *feme sole;* but, where a legal interest is vested in a trustee for the wife, it must be conveyed by him, and where by reason of there being no trustee it is vested in the husband, it must be conveyed by him, or by him and his wife, exactly in the same manner as if the property belonged to the wife, but did not form part of her separate estate" (*i.e.* it must be conveyed by deed acknowledged. See Elphinstone, p. 135).

But not to legal estate.

Husband's interests on death of wife.

"The interests of the husband after the wife's death in her separate estate as to which she dies intestate are the following, and they have not been affected by the Married Women's Property Act, 1882: He is tenant by the curtesy of her freeholds of inheritance in those cases in which he would have been tenant by the curtesy, if there had been no separate use." "He is" also "entitled to her leaseholds by survivorship."

Wife's separate estate under M. W. P. A., 1870.

"Property constituted the wife's separate estate by the Married Women's Property Act, 1870 (which was repealed by the Married Women's Property Act, 1882, but so as not to affect any right acquired while the Act was in force), consisted of, '*inter alia*, if the wife was married after the 9th of August 1870,' personalty to which she became entitled during marriage as next of kin or one of the next of kin of an intestate, . . . and also the rents and profits of freeholds . . . descending on her as the heiress or one of the co-heiresses of an intestate. . . . The Act only dealt with the equitable interest, and put the wife into the same position as if the property constituted her separate estate by the Act, had been constituted her separate estate by contract."

Where wife restrained from anticipation.

"A married woman is unable to dispose, by Act *inter vivos*, of property which is her separate estate (either under an express trust or by virtue of the Married Women's Property Act, 1870, or the Married Women's Property

* The estate by the curtesy does not arise till the wife's death. 2 Bl. Comm. 128S.

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Act, 1882, see Sect. 19), where it is subject to a restraint on anticipation; but the Court may, when it appears to be for her benefit, with her consent bind her interest in any property notwithstanding the restraint; Conveyancing Act, 1881, Section 39. (See Elphinstone's Introduction, p. 135.)

Secondly, where the wife was married after 1882, or was married before 1883, but her title accrued after 1882.

Wife is in position of a *feme sole*.

"By the Married Women's Property Act, 1882, the wife is, for the purpose of acquiring, holding, and disposing by will or otherwise of property put into the position of a *feme sole*, so that the husband's common law rights are altogether excluded during the coverture, and the wife can deal with the legal as well as the equitable interests in property without his concurrence; but the Act does not deprive the husband after her death (subject to any disposition that she may make by will) of the same rights over her property as he would have had over property settled to her separate use if the marriage had taken place, and the property had been acquired by her before 1st January 1883."

The foregoing is a statement of the general law upon the point, but certain Sections of the Irish Land Acts contain special provisions with regard to married women.

Provisions of Act of 1870.

Section 60 of the Act of 1870 provides that "A married woman entitled to her separate use, and not restrained from anticipation, shall for the purposes of this Act be deemed a *feme sole*, but where any other married woman is desirous of making any application, giving any consent, or doing any act, or becoming party to any proceeding under this Act, in relation to any holding, her husband's concurrence shall be required." The Section further provides for the examination of the married woman apart from her husband by the Civil Bill Court of the county.

Section 61 of the same Act declares that where the Civil Bill Court sees fit it may appoint a person to act as the next friend of a married woman for the purpose of any proceeding under the Act, and may from time to time remove or change such next friend. (For text of Sects. 60 and 61, see Appendix B, *post* pp. 178 and 179.)

Sections 60 and 61 of the Act of 1870 are incorporated in the Act of 1881 by Section 38 thereof. (For text of Sect. 38, see Appendix B. *post* p. 188.)

Provisions of L. E. Court Act.

Section 73 of the Landed Estates Court Act, 1858, provides that the husband of a married woman may make such applications, give such consents, do such acts, and be party to such proceedings as the married woman, if free from disability, might have made, given, done, or been party to; but a married woman entitled for her separate use (with or without power of anticipation) shall for the purposes of the Act be deemed a *feme sole*. The Section further provides that where the Court sees fit it may appoint a person to act as the next friend of a married woman for the purpose of any proceeding under the Act, and may from time to time remove or change such next friend. (For text of Section, see Appendix B, *post* p. 175.)

Section 73 of the Landed Estates Court Act is incorporated in the Act of 1885 by Section 10 thereof.

Land Commission Rules.

Order XXIX., Rule 2 of the Rules of March 1897, is as follows: "When any married woman, not entitled for her separate use, joins in or consents to any application to the Land Commission, the Commissioner shall before making an order be satisfied that such married woman is aware of the nature and effect of the application, and that she freely consents thereto, and for this purpose an appointment shall be made with the solicitor for her attendance before the Commissioner, for the purpose of being examined, or the Commissioner may at his discretion appoint some

solicitor to make such examination, who shall for that purpose be furnished with a copy of the application; and the solicitor so appointed shall certify to the Commissioner that he has made such examination, and the result thereof and his certificate shall be verified by affidavit." (See Rules, *post* p 400.)

Married woman tenant for life.

The case of a married woman who is a tenant for life is specially dealt with by Section 61 of the Settled Land Act, 1882, which is as follows:—

"(1) The foregoing provisions of this Act do not apply in the case of a married woman.

"(2) Where a married woman who, if she had not been a married woman, would have been a tenant for life or would have had the powers of a tenant for life under the foregoing provisions of this Act, is entitled for her separate use, or is entitled under any statute, passed or to be passed, for her separate property, or as a *feme sole*, then she without her husband shall have the powers of a tenant for life under this Act.

"(3) Where she is entitled otherwise than as aforesaid then she and her husband together shall have the powers of a tenant for life under this Act.

"(4) The provisions of this Act referring to a tenant for life and a settlement and settled land shall extend to the married woman without her husband, or to her and her husband together, as the case may require, and to the instrument under which her estate or interest arises, and to the land therein comprised.

"(5) The married woman may execute, make, and do all deeds, instruments, and things necessary or proper for giving effect to the provisions of this Section.

"(6) A restraint on anticipation in the settlement shall not prevent the exercise by her of any power under this Act."

The power of sale conferred upon tenants for life by the Settled Land Act has already been considered. (See notes, *ante* p. 55.)

As to payment of the bonus where a married woman and her husband exercise together the powers of a tenant for life, see Section 3 of the Act 1904, *post* p. 167.

Summary of law as to married women.

The effect of the foregoing provisions may be summarised shortly as follows:—

1. If the married woman is restrained from anticipation she must, prior to commencing proceedings in the Land Commission, obtain from the Chancery Division of the High Court an order removing the restraint, under Section 39 of the Conveyancing Act, 1881.

Such an application is made by summons at Chambers. See Section 69 (3) and Section 72 of the Conveyancing Act, 1881. The trustees of the Settlement should generally be served: *re Little*, 36 Ch. D. 701. Inasmuch as the Court will only exercise the power where a strong case is made for it (see *Harrison* v. *Harrison*, 40 Ch. D. 418), it is conceived that it would be desirable to obtain offers from the tenants before bringing forward the application, so as to show the desirability of a sale.

It was decided in *Shortt's Estate*, MacC. 37 (O'HAGAN, J.), that Section 48 (3) (*d*) of the Act of 1881 does not confer upon the Land Commission the power of removing a restraint on anticipation given to the Court of Chancery by Section 39 of the Conveyancing Act, 1881. Section 48 (3) of the Act of 1881 provides as follows: "The Land Commission with respect to the following matters; that is to say.....Making..... any order.....for the purpose of carrying into effect the objects of this Act shall have all such rights, powers, and privileges as are vested in the Chancery Division of the High Court of Justice in Ireland for such or the like purposes."

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2. If the married woman is entitled for her separate use, either by express declaration or under the provisions of the Married Women's Property Act, 1870, or if she is in the position of a *feme sole*, by virtue of the Married Women's Property Act, 1882, then she has precisely the same powers of sale as any unmarried woman.

3. If the married woman is not entitled for her separate use, and is not in the position of a *feme sole*, under the Married Women's Property Act, 1882, then both she and her husband must join in the proceedings for sale, and before any order is made the married woman must be examined in the manner prescribed by Order XXIX., Rule 2, above referred to.

4. Where a married woman who is a tenant for life, or who has the powers of a tenant for life, is entitled for her separate use, either by express declaration or under the provisions of the Married Women's Property Act, 1870, or is in the position of a *feme sole*, by virtue of the Married Women's Property Act, 1882, then she has the same powers of sale as any unmarried woman.

5. Where a married woman who is a tenant for life, or who has the powers of a tenant for life, is not entitled for her separate use and is not in the position of a *feme sole*, under the Married Women's Property Act, 1882, then she and her husband together have the powers of a tenant for life.

Procedure in Land Judges Court.

As to the procedure in the Land Judges Court, see Section 73 of the Landed Estates Court Act, 1858, and Rules 12 and 16 of the Rules of 1859. (See Madden's "Practice before the Land Judge," pp. 94, 119, and 121; see also "Forms and Directions," Madden, pp. 191 and 192.)

Lunatics.

As to sales of lunatics' estates, see notes to Section 26, *post* p. 87.

(*b*) **Prescribed.**—The procedure under this Section is dealt with by Rules 14 to 18 of the Rules of 23rd October 1903 (*post* p. 483).

(*c*) **Land Purchase Aid Fund.**—The payment out of this fund of what is commonly known as "the bonus" is regulated by Section 48, *post* p. 97, and by the amending Act of 1904, *post* p. 165.

(*d*) **Limited owner.**—For list of limited owners who can sell under the Land Purchase Acts, see notes, *ante* p. 60.

(*e*) **Trustees of the settlement for the purposes of the Settled Land Acts, 1882 to 1890.**—As explained above (see notes, *ante* p. 56), sales under the Settled Land Acts cannot be effected unless there are trustees of the settlement for the purposes of those Acts. The effect of the Sub-section now being noted is to dispense with the necessity of such trustees during the preliminary stages of the sale, but payment of the purchase money and of the bonus cannot be obtained until such trustees have been appointed. As to who are "trustees for the purposes of the Settled Land Acts," see notes, *ante* p. 63.

Rents and profits recoverable by Land Commission

18.—(1) The rents and profits of any land agreed to be purchased by the Land Commission, together with any interest under Section thirty-five of the Act of 1896, (*a*) which interest shall be at a rate of not less than three and a half per cent. per annum, and, subject to the provisions of this Section, (*b*) any arrears of rent due at the date of the purchase agreement, and not remitted by the

Commission, (*c*) shall from the date of the agreement be payable to and recoverable by the Commission in like manner as if they were instalments of purchase annuities charged upon holdings.

(2) Interest on the purchase money, at the rate of three and a half per cent. per annum, shall be paid by the Land Commission to the person in receipt of the rents of the land at the date of the agreement, or such other person as may appear to the Land Commission (*d*) to be entitled thereto, from the date of the agreement until the land is vested in the Commission:

Provided that if the land does not become vested in the Land Commission the foregoing provisions of this Section shall cease to have effect as from the date on which the Commission certify that the sale cannot be completed, and an account shall be rendered by the Commission as between the moneys received by them and any interest paid by them under those provisions, and the balance (if any) certified by the Commission shall be paid by or to them accordingly, and the certificate shall be conclusive of the matters stated therein.

(3) Section thirty-five of the Act of 1896 shall, subject to the provisions of this Section, apply with the necessary modifications to the case of an agreement with the Land Commission for the purchase of a holding. (*e*)

General effect of Section.

This Section only deals with land purchased by the Land Commission, not with land sold direct to the tenants. The Land Commission can purchase land under the following Sections:—

Cases in which L. C. can purchase land.

1. Under Section 3 they can purchase demesne land from an owner who is selling his tenanted land direct to the tenants.

2. Under Section 6 they can purchase an entire estate from a landlord including, if necessary, untenanted land.

3. Under Section 7 they can purchase an entire estate from the Land Judge, including, if necessary, untenanted land.

4. Under Section 8 they can purchase any untenanted land which they consider necessary for facilitating the resale of estates purchased by them.

Rents and profits payable to L. C.

In all these cases (with the exception of No. 3) the rents and profits (including any interest in lieu of rent and including any arrears of rent due at the date of the agreement) are payable to the Land Commission as from the date of the agreement until the land is resold, and the purchase annuities begin to run.

Land purchased from L. J.

In the case of No. 3 no agreement is executed, but the order of the Land Judge accepting the offer of the Land Commission operates to vest the estate in them (see Sect. 7 (5), *ante* p. 21). The order specifies the arrears of rent which are to be recoverable by the Land Commission, and the subsequent rents and profits are apparently payable to them as the owners of the estate.

Payment of interest by L. C.

The Land Commission are in turn liable to pay interest at 3½ per cent. to the vendor as from the date of the agreement until they make the order vesting the land in them. The vesting order cannot be made for at least

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two months after the date of the agreement (see Sect. 16 (2), *ante* p. 50). As explained above, where an estate is purchased from the Land Judge there is no agreement, and therefore there is no intervening period between the date of the agreement and the vesting order.*

It is to be observed that the Section now being noted only provides for payment of interest by the Land Commission down to the date of the order vesting the land in them. Subsequently to that date interest is payable under Section 24 (2) as qualified by Section 25 (2). (See pp. 79 and 86.)

Payment of interest in lieu of rent.

(*a*) **Section 35 of the Act of 1896.**—Sub-section (2) of that Section provides that interest on the purchase money from the date of the purchase agreement until the day from which the purchase annuity begins, shall be payable half yearly on 1st May and 1st November, by the purchaser to the Land Commission; and when received by them shall, as respects the period subsequent to the date of the advance, be applied in payment of the interest due under Section 20 of the Act of 1887, and subject thereto shall be paid to the person in receipt of the rent at the date of the agreement. (For full text of the Section, see Appendix B, *post* p. 217.)

Section 20 of the Act of 1887 provides that purchase annuities shall be payable half yearly, on 1st May and 1st November, and that the first half yearly payment of any such annuity shall, where the advance is not made on one of the said gale days, be paid on the second of such gale days after the date of the advance, and that together with such half yearly payment there shall be paid an additional sum for interest on the advance at 3⅛ per cent. from the date of the advance until the first gale day next after that date. (For text of Section, see Appendix B, *post* p. 206.) The rate of interest was by Section 16 of the Act of 1891 reduced from 3⅛ per cent. to 3 per cent.*

Modification introduced by Act, 1903.

The effect of the two foregoing Sections appears to be modified by Section 45 of the Act of 1903, which provides that advances in pursuance of agreements entered into after the passing of the Act, are to be repaid in the manner and at the times prescribed by the Treasury. The Treasury have issued regulations which provide:—

1. That the gale days are to be 1st June and 1st December.

2. That when the advance is not made upon a gale day interest at 2¾ per cent. from the date of the advance is to be paid upon the first gale day. (See note (*a*) to Sect. 45, *post* p. 95.)

No rate of interest is mentioned in Section 35 of the Act of 1896, but the purchase agreement generally provided for payment of interest at 4 per cent. The Section now being noted declares that such interest must not in the case of estates purchased by the Land Commission be less than 3½ per cent. †

Delay in advancing purchase money.

At the date of writing these notes (December, 1904) a difficulty has arisen about supplying the money necessary for carrying out sales. When the Bill was brought in, an understanding was arrived at with the Treasury that not more than £5,000,000 would be called for in any one year, and it was not anticipated that applications for more than that sum would be made. It now appears that the Act has been so largely availed of that applications for a very large sum—stated in some quarters to amount to £12,000,000, in others to £18,000,000—have been received. The £5,000,000 allotted by the Treasury for the first year have long since been exhausted, and, unless some steps are taken to increase the annual allowance, it is obvious that persons who put in their applications now may not receive payment of the purchase money for some years to come. It is, therefore, important

* See Addenda.

† *N.B.*—The interest which accrues between the date of the purchase agreement and the date of the advance is still collected on 1st May and 1st November.

for every intending vendor to consider what interest he can afford to accept on his purchase money for the next few years. Where an estate is heavily encumbered, it would, of course, be foolish for the owner to place himself in a position in which he would receive interest at perhaps 3½ per cent., and be liable to pay interest at possibly 5 per cent. In the case of sales direct to tenants the difficulty might be got over by increasing the rate of interest payable by the tenants pending completion. This interest has hitherto usually been reserved at 3½ per cent.

Lodgment of agreement cancels arrears.

(*b*) **Subject to the provisions of this Section.**—The words "this Section" should read "that Section," and refer to Section 35 of the Act of 1896, Sub-section (1) of which provides that the lodgment of a purchase agreement with the Land Commission shall in the event of the sale being carried out discharge the purchaser from all liability to the vendor for rent and arrears, but that if the advance is refused the tenant shall be liable to the rent and arrears. The effect of the Section now being noted would seem to be that all rent and arrears due at the date that the Commission agree to purchase the estate become the property of the Commission, but that as each tenant enters into an agreement for the purchase of his holding, all arrears, which he has not in the meantime paid, are thereby cancelled.

Misprint in Section.

Sub-section (1) of Section 10 of the Bill introduced in the year 1902 was identical with Sub-section (1) of the Section now being noted, save that the words "this Section," above referred to read "that Section." If the words be read as "that Section," their meaning is plain; if read as "this Section," it is hard to place any intelligible construction upon them.

(*c*) **Remitted by the Commission.**—It is assumed that when the Commission remit arrears, they will do so conditionally upon the sale being carried through.

(*d*) **Land Commission.**—The Land Commission, that is to say, the Estates Commissioners (see Section 23 (1), *post* p. 75), are here declared to be the persons to decide as to what parties are entitled to receive the interest on the purchase money. Should, however, any question of law arise in determining this point, the matter may be referred to the Judicial Commissioner under Section 23 (1), *post* p. 75.

(*e*) For the text of Section 35 of the Act of 1896, see Appendix B, *post* p. 217.

Power to declare certain tenants to be purchasers.

19. Where an estate is purchased by the Land Commission and tenants on the estate to the extent of three-fourths in number and rateable value have agreed to purchase their holdings, the Estates Commissioners may, if, having regard to the circumstances of the case, they think it expedient, order that the remaining tenants, or any of them, shall be deemed to have accepted the offers made to them, and the Land Purchase Acts shall apply accordingly, where the tenant could have obtained an advance of the entire purchase money, (*a*) and the Land Commission have offered in the prescribed (*b*) manner to make the advance.

This Section is intended to prevent the Land Commission from being left with unsold holdings on their hands. Sections 6 and 7 provide that the Land Commission may not purchase an estate unless three-fourths of the tenants agree to buy. The present Section enables the remaining fourth to be dealt with.

If a landlord finds a small number of his tenants impossible to deal with, he may, by selling to the Land Commission, under Section 6, get over the difficulty. The irreconcilables can then be compelled to buy under this Section.

The terms of the Section now being noted are very similar to the terms of Section 40 (1) (*d*) of the Act of 1896 (see Appendix B, *post* p. 219), but there is this difference between the two Sections: Under Section 40 a tenant, whose purchase money would exceed the limit prescribed by the Land Purchase Acts, was deemed to be excluded from the estate when arriving at the three-fourths proportion. Under the present Section the holding of such tenant must be included when making the calculation. Accordingly, it may not be possible to deal with a case under the present Section which could be dealt with under the provisions of Section 40.

(*a*) **Could have obtained an advance of the entire purchase money.**—As to the limitations on advances to purchasing tenants, see note (*l*) to Section 1, *ante* p. 6. Of course, if the tenant is not entitled to get an advance of the entire purchase money he cannot be compelled to buy.

(*b*) **Prescribed.**—See Rules 31, 32, and 33 of Rules of 23rd October 1903, *post* p. 487.

Schemes for user of land by trustees.

20.—(1) Where any land is purchased by means of an advance under the Land Purchase Acts by any trustees for the purposes mentioned in Section four of this Act, the trustees shall hold the land upon such terms and conditions and with such rights and powers as may be specified in a scheme framed by the Lord Lieutenant or approved of by him, and any such scheme shall contain provisions for the appointment of new trustees, and for an appeal to the Lord Lieutenant by any person aggrieved by any action or omission of any trustees in carrying the scheme into effect, and for enabling the Lord Lieutenant, on the hearing of any such appeal, to make such order as may appear to him just.

(2) Where any land so purchased is not required for any of the purposes aforesaid it may be disposed of for any public purposes approved of by the Lord Lieutenant.

Regulations as to turbary on holdings.

21.—(1) In the case of the sale of an estate where portion of a holding consists of bog, and the purchaser had not an exclusive right of turbary (*a*) before such sale, the Land Commission may make regulations, (*b*) authorising the cutting or making of turf on that bog by any occupiers of land in the neighbourhood of the said holding for whose requirements such turf appears to be necessary, upon such terms, as to payment or otherwise, as may appear to them to be just, and those regulations may confer a right to enter upon any land for the purpose aforesaid.

(2) Regulations under this Section shall secure that the cutting or making of turf will not prevent the future reclamation of the bog, and that sufficient turf and pasturage will be left for the use of the proprietor of the holding for a reasonable period.

(3) Regulations under this Section shall provide that any person entering upon any land under their authority shall make reasonable amends and satisfaction for any damage done or occasioned thereby.

(4) Any regulations under this Section may provide for the punishment of any breach of them by a fine not exceeding five pounds, recoverable in a summary manner. (*c*)

The provisions of this Section are very similar to the provisions of Section 4 of the Turbary (Ireland) Act, 1891 (54 & 55 Vict. cap. 45).

(*a*) **Had not an exclusive right of turbary.**—It will be convenient to give here a short sketch of the law dealing with a tenant's right to turbary.

Common law right to turbary.

Where bog forms a portion of lands demised, the tenant is, at Common Law, entitled to turbary thereout by way of estovers for consumption upon the demised premises. (*Howley* v. *Jebb*, 8 I. C. L. R. 435.) But he is not entitled to cut turf for sale, nor to cut turf for his own consumption on reclaimed bog, because these acts are acts of waste. At Common Law the landlord has no right to cut turf on a tenant's holding, unless the turf is excepted or reserved, or there is a special contract authorising him to do so.

Rights under Act 1860.

Tenants in perpetuity.

Section 25 of the Act of 1860 provides that no tenant of any lands entitled to any perpetual interest under any lease or grant made after 1st January 1861, shall be impeachable for waste, other than fraudulent or malicious waste, unless there be a provision to the contrary contained in the lease or grant; but this does not apply to fee farm grants under the Renewable Leasehold Conversion Act, or renewed leases executed after 1st January 1861, in pursuance of an agreement for renewal contained in a lease made before the 28th August 1860.

In *Gore* v. *O'Grady*, I. R. 1 Eq. 1, it was decided that where bog *eo nomine* is demised, along with other lands, for lives renewable for ever, and the lease is converted into a fee farm grant under the provisions of the Renewable Leasehold Conversion Act, a grantee cutting turf for sale is impeachable for waste, the 4th Section of the Act preserving the grantor's rights under the lease upon its conversion into a perpetuity.

Tenants under leases after 1860.

Section 29 of the Act of 1860, which is declaratory of the pre-existing law, provides that where any lease or demise shall be made on or after the 1st of January 1861, of lands containing turf bog, unreclaimed and unprofitable for agriculture, or where any lease shall be so made, giving a right of turbary on the premises, or conferring a right of common of turbary on premises not comprised in the lease, it shall be lawful for the tenant, unless by the said lease it be specially provided to the contrary, to cut, use, and enjoy the said turf bog, so far as shall be necessary for the *bona fide* use on the demised premises of the tenant and his lawful sub-tenants, but not for any purpose of trade or manufacture, or for profit, or sale, unless the right so to use and enjoy the same shall have been expressly granted in writing by the landlord being competent so to grant as aforesaid.

The tenant's right may be excluded by contract.

The right of a tenant to cut turf upon his holding for *bona fide* consumption thereon, whether at Common Law or under Section 29 of the Act of 1860 (referred to above), is subject to be controlled or excluded by contract, of which the conduct of the parties may furnish proof, as where the established usage on an estate, adopted and acquiesced in by the tenants has been to disallow the cutting of turf without a written license from the land-

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lord. *Douglas* v. *M'Laughlin*, 17 I. L. T. R. 84. See also *Lord Lifford* v. *Kearney*, 17 I. L. T. R. 30.

Rights under Act 1881.

Section 5 of the Act of 1881, which lays down the Statutory conditions to which judicial holdings are subject, provides that the landlord (making reasonable satisfaction for any damage occasioned thereby) shall have the right to enter upon the holding for the purpose of cutting or taking turf, save such turf as may be required for the use of the holding. In the case of *Knox* v. *Baxter*, 19 L. R. Ir. 460, it was decided by the Court of Appeal that where turbary is excepted to the landlord, and the tenant gets a fair rent fixed, Section 5 of the Act of 1881 does not confer upon the tenant a right of cutting turf for his own consumption. But where the contract of tenancy is silent on the subject of turbary rights; where there is no exception or reservation of turbary, the Act gives to the landlord a right of entry, for the purpose of taking turf which he did not possess before. *Townshend* v. *Cotter*, 29 L. R. Ir. 243, affirmed on appeal, 31 L. R. Ir. 86. In *Byrne* v. *Hynes*, 2 I. W. L. R. 164, PALLES, C. B., expressed the opinion that the right given by Section 5 of the Act of 1881 to a landlord to enter on his tenant's holding and cut turf, only confers on him the right to cut turf where it would not be waste on the part of the tenant to exercise his right to cut turf for the use of his holding, and does not confer on the landlord a right to cut turf on the part of the holding where the tenant would have no right to do so. The other members of the Court (FITZGIBBON, BARRY, and WALKER, L. J. J.) expressed no opinion on the point.

As to the right of tenant purchasers to cut turf where the vendor held under a grant reserving the turbary, see *Shaftesbury* v. *Doherty*, 4 N. I. J. R. 220.

Right may be acquired by prescription.

A right of turbary can be acquired by prescription under the Prescription Act (2 & 3 Wm. IV. c. 71), Section 1, extended to Ireland by 21 & 22 Vict. c. 42; "And when such right shall have been taken and enjoyed for the full period of sixty years the right thereto shall be deemed absolute and indefeasible, unless it shall appear that the same was taken and enjoyed by some consent or agreement expressly made or given for that purpose by deed or writing."

The Section now being noted is only applicable where the purchaser "had not an exclusive right of turbary" before the sale. Inasmuch, however, as the majority of tenants have either no rights at all, or else have non-exclusive rights, the Section will have a wide application.

Cases where tenant has non-exclusive right.

It will apply in the following cases:—

1. Where the right of turbary is reserved by the contract of tenancy.

2. Where the established usage on the estate, adopted and acquiesced in by the tenants, has been to disallow the cutting of turf without permission from the landlord.

3. Where parties other than the tenant have acquired rights either under contract or by prescription.

4. Where a fair rent has been fixed and the landlord has a right under Section 5 of the Act of 1881.

(*b*) **Regulations.**—See Rule 36 of Rules of 23rd October 1903, *post* p. 488.

(*c*) See Rule 37 of Rules of 23rd October 1903, *post* p. 488.

Power of Land Commission to determine disputes between proprietors of holdings.

22. On the application in the prescribed manner of any proprietors of holdings purchased under the Land Purchase Acts, the Land Commission may, at the request of the parties interested, if

they think fit, determine all questions which may arise respecting the boundaries of the holdings, easements, or appurtenances, claimed by any of such proprietors against any other proprietors or tenants of holdings.

This Section would only appear to be applicable where the proprietor of a holding *which has actually been purchased* is involved in a dispute with some other proprietor or tenant of a holding. It must be further observed that it only applies to easements and appurtenances claimed by the proprietor against such other person, and not to easements and appurtenances claimed by that person against him.

The practice under the Section is regulated by Rule 34 of Rules of 23rd October 1903 (*post* p. 488).

Somewhat similar powers are conferred upon the Land Commission by Section 31 of the Act of 1891, which provides that, "Where any tenants of an estate have agreed to purchase their holdings under the Land Purchase Acts, the Land Commission shall have power, if they think fit, where the agreements for sale so provide, to determine for the purposes of the sale all questions which may arise respecting the boundaries of the holdings, easements, turbary, or appurtenances claimed by any of such tenants of such estate against any other of such tenants of the same estate."

Certain powers and duties of Land Commission to be exercised by Estates Commissioners.

23.—(1) The jurisdiction, powers, and duties of the Land Commission under the foregoing provisions of this Act shall be exercised and performed exclusively by three members of the Commission (in this Act referred to as "the Estates Commissioners") to be nominated or appointed as hereinafter mentioned. (*a*) Any question of law may, if the Estates Commissioners think fit, and shall on the application of any person interested, be referred for the decision of a Judicial Commissioner, unless the Estates Commissioners certify in writing that the application is frivolous.

(2) Any person aggrieved by any refusal of the Commissioners so to refer any such question may, in the manner prescribed by rules under Section 61 of the Supreme Court of Judicature (Ireland) Act, 1877, as amended by any enactment, and within the time prescribed by the Judicial Commissioner, apply to the High Court, or any judge thereof, for an order requiring the Commissioners so to refer the question, and the decision of the High Court or judge upon any such application shall be final. (*b*)

(3) One of the Estates Commissioners shall be an existing member of the Land Commission, to be nominated by the Lord Lieutenant, and the others shall be persons to be appointed by His Majesty, by warrant under the Royal Sign Manual, as additional members of the Land Commission.

(4) The persons so appointed shall be paid out of money provided by Parliament an annual salary of two thousand pounds.

(5) The Estates Commissioners shall hold office during pleasure, but any Estates Commissioner shall only be removed from his office by an Order in Council, and any such Order shall be laid before each House of Parliament forthwith, and if an Address is presented to His Majesty by either House of Parliament, within the next subsequent forty days on which that House has sat next after any such Order is laid before it, praying that the Order may be annulled, His Majesty in Council may annul the Order. and it shall thenceforth be void.

(6) Whenever a vacancy occurs in the office of a person so nominated or appointed by his death, resignation, inability to act, or otherwise, or of any person appointed in his place, His Majesty may, if he thinks fit, by warrant under the Royal Sign Manual, appoint some person to fill the vacancy.

(7) The two vacancies occurring next after the commencement of this Act in the number of the members of the Land Commission, other than the Judicial Commissioner, or an Estates Commissioner, shall not be filled.

(8) The Estates Commissioners, in carrying the foregoing provisions of this Act into effect, shall be under the general control of the Lord Lieutenant, and shall act in accordance with such regulations as may be made by him from time to time.

(9) For the purpose of assisting the Estates Commissioners in carrying the aforesaid provisions into effect the Lord Lieutenant may, after consultation with the Land Commissioners, nominate such officers of the Land Commission, and may, with the consent of the Treasury as to number and remuneration, appoint or authorise the employment of such other persons as may be necessary, and the remuneration of those persons shall be paid as part of the expenses of the Land Commission.

(10) Such officers and other persons shall perform such duties as may be assigned to them by the Estates Commissioners.

(11) Sales of estates to the Estates Commissioners and sales by those Commissioners to tenants and others may be negotiated by any land agents, solicitors, or land clerks nominated with the approval of the Estates Commissioners by the vendors, or in the absence of such nomination, may be negotiated by any persons approved by those Commissioners, at a fixed price or percentage, according to a scale to be settled by the Estates Commissioners with the assent of the Treasury, and such price or percentage shall be paid as part of the expenses of the Land Commission. (*c*)

(12) Where in the case of the sale of an estate to persons other than the Land Commission an agent has been employed by the

vendor to negotiate the sale such sum as may be sanctioned by the Estates Commissioners may, with the consent of such vendor, be paid to that agent out of the purchase money as part of the costs connected with the sale. (*d*)

(13) The Judicial Commissioner and the Estates Commissioners may, subject to the approval of the Lord Lieutenant, and after consultation with the President of the Incorporated Law Society of Ireland, make rules for carrying into effect the foregoing provisions of this Act, and those rules shall among other things provide for the making of such investigations and the performance of such other duties, by the aforesaid officers and persons, as may be requisite and practicable, with a view to limiting the costs and expenses (*e*) of persons applying to the Land Commission to purchase land in pursuance of those provisions, and the expression "prescribed" in those provisions means, unless the context otherwise requires, prescribed by those rules.

(14) Periodical reports of the proceedings of the Estates Commissioners shall be made by them, in such form and at such times as the Treasury may prescribe, and those reports and all rules under the last preceding Sub-section shall be laid before Parliament as soon as may be after they are made.

Sales under old Acts *versus* sales under new.

(*a*) It is important for the reader to understand that there are now two systems by which properties can be sold under the Land Purchase Acts; one, the old system which was in vogue prior to the Act of 1903; the other, the new system established by that Act. If a vendor desires to sell his property under the old system, he will prepare the form of Originating Statement prescribed by the Rules of March 1897 (*post* p. 370) and file it with the Land Purchase Commissioners at their office, 24 Upper Merrion Street. If, on the other hand, he wishes to sell under the Act of 1903, he must fill up a form of Originating Application, or Originating Request, as the case may be, and lodge it in No. 25 Upper Merrion Street, the Office of the Estates Commissioners. If a vendor sells under the new system, the proceedings are under the control of the Estates Commissioners; if under the old system, the Estates Commissioners have nothing whatever to say to the sale. The consequences which flow from this fact appear to be of the utmost importance.

Act 1903 only applies where "estates" sold.

The first twenty-three Sections of the Act of 1903 (except possibly Sub-sections 1 and 2 of Sect. 13, Sect. 14, and Sect. 22) are exclusively concerned with the sale of "estates," and an "estate" is defined by Section 98 as meaning (in Part I. of the Act) "any lands which the Estates Commissioners may declare fit to be regarded as a separate estate." It would seem to follow from this, that, in order to bring into force the provisions of those twenty-three Sections, the lands for sale must be brought within the jurisdiction of the Estates Commissioners, or, in other words, must be sold under the new system established by the Act of 1903.

Advantages of sales under Act 1903.

If this be the true construction of the Act, sales under the old system will compare most unfavourably with sales under the new. Under the

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new system, the principle of the zones applies, demesne lands can be repurchased, and guarantee deposits cannot be retained. Under the old system none of these advantages can apparently be claimed.

Residues of estates.

If this view of the law be right, it is unlikely that any new sales will be started under the old system, but residues of estates, portions of which have already been sold, may be disposed of in this way, and it would seem as if sales by the Land Judge under Section 4 of the Act of 1885, and under Section 40 of the Act of 1896, can only be made under the old system. Where part of an estate has been sold prior to the Act of 1903, the vendor can, if he wishes, sell the rest of the Estate under the provisions of that Act by filing an Originating Application in the office of the Estates Commissioners. Before preparing the application, he should, however, obtain the directions of the proper officer as to how far the old proceedings can be utilised (see Rule 6 of Rules of 23rd October 1903, *post* p. 482).

Sales by L. Judge.

In the case of sales in the Land Judges Court, the provisions of the New Act can be taken advantage of by selling to the Estates Commissioners under Section 7 of the Act of 1903. Solicitors having carriage of proceedings in that Court will do well to consider whether they cannot dispose of the estates under their charge in this way, instead of under the Sections of the Acts of 1885 and 1896 above referred to. The question of dealing with estates in the Land Judges Court is fully considered in the notes to Section 7, *ante* p. 22.

No bonus unless an "estate."

In *Leonard's Estate* (38 I. L. T. R. 204), MEREDITH, J., decided that he could not entertain any application for payment of the bonus without evidence that the lands had been declared to be an estate either by the Estates Commissioners or by the Congested Districts Board.

Duties of Estates Commissioners—administrative not judicial.

It may perhaps be convenient to explain here that the duties of the Estates Commissioners are of an administrative and not of a judicial character. It is their duty to negotiate with landlords for the purchase of estates, and to superintend the sale of estates to tenants, but they do not deal with the ascertainment of the landlord's title (except in a certain limited manner which will shortly be explained), nor with the distribution of the purchase money. These matters involve the determination of legal questions, and are accordingly dealt with by one of the Judicial Commissioners. In short, it is the duty of the Estates Commissioners to turn estates into cash, but it falls upon the Judicial Commissioners to see that the cash is paid to the proper persons.

Duties of Judicial Commissioners.

It follows that the "Originating Application" by which proceedings under the Act of 1903 are initiated, is filed in the Estates Commissioners' Office, and the agreements between the landlord and the tenants lodged with them; but the abstract of title is lodged in 24 Upper Merrion Street, and application for payment out of the purchase money made there. To the Judicial Commissioners are also made all applications for the apportionment and redemption of superior interests and other applications of a similar nature, in connection with sales under the Act of 1903.

Investigation of title by Estates Commissioners.

The investigation of title which has been found to be necessary before the Estates Commissioners can declare their readiness to deal with an intending vendor forms more or less of an exception to the principle that the duties of the Estates Commissioners are of an administrative and not of a judicial character. It is thought that the framers of the Act were of opinion that a very cursory examination of the title would suffice, but when the matter came to be worked out in practice it was found that this was not so. There are three points upon which the Estates Commissioners must be satisfied before they can proceed to vest the land in the tenants.

1. It must be proved that the lands shown on the map are the lands referred to in the deeds.

2. It must be shown what superior interests the lands are liable to.

3. A brief outline of the title must be supplied, so as to show that the intending vendor is really the owner of the lands for sale.

It would, therefore, be convenient if solicitors about to carry out sales were to prepare their abstracts of title before lodging their Originating Applications. They would then be conversant with the title and able without difficulty to comply with the requirements of the Estates Commissioners.*

(*b*) Order LIV., C., of the Rules of the Supreme Court (Ireland), 1905, *post* p. 352. See also Land Commission Rule of 4th December 1903, *post* p. 325.

(*c*) No scale of charges for negotiating sales has at the time of writing (January 1905) been settled by the Estates Commissioners, but it is believed that the intention is to pay the negotiator in each case according to the nature and amount of the work which he had to do.

On the 12th October 1903, the Land Agents' Committee of the Surveyors' Institution passed a resolution dealing with the subject of agent's remuneration on sales. The resolution is as follows :—

"In the opinion of this Body a Commission of 3 per cent. on the gross purchase money should be the Land Agent's fee for negotiating sales under the Land Act, 1903."

The Incorporated Law Society has also settled a scale of charges for solicitors. A copy of the memorandum issued by it will be found in Appendix C, *post* p. 232.

A form of agreement fixing a solicitor's remuneration on sale will also be found in Appendix C, *post* p. 226.

Application of trust money to pay agent's fee.

(*d*) This Sub-section is intended to remove any doubts as to the legality of employing the purchase money of settled estates in the remuneration of the agent who negotiated the sale.

Where a vendor agreed to allow his agent a percentage both on the purchase money and the bonus, MEREDITH, J., refused to allow the percentage on the bonus to be placed on the allocation schedule, holding that it was not portion of the costs of sale, the bonus being no portion of the purchase money for the purpose of allocation. *Ayre's Estate*, 38 I. L. T. R. 164.

(*e*) **With a view to limiting the costs and expenses.**—Rules 16, 26, 29, and 45 of Rules of 23rd October 1903, appear to have been framed with a view to saving expense to vendors. See those Rules, *post* pp. 483, 486, 487, and 490.

Purchase Money of Estates.

Distribution of purchase money.

24.—(1) In the case of the sale of an estate to persons other than the Land Commission, so soon as a holding or parcel of land comprised in the estate is vested in the purchaser, the Land Commission shall, in pursuance of Sub-section one of Section fourteen of the Act of 1887, (*a*) pay the purchase money into the Bank of Ireland, and make an order (*b*) attaching claims to the purchase money, which shall be as effectual for that purpose as a vesting order made by the Land Commission (*c*) vesting land in them.

(2) Where land is vested in the Land Commission by a vesting

* See Addenda.

order made by them, or where money is paid into the Bank of Ireland as aforesaid, the Commission shall, subject to the provisions of this Act, (*d*) pay interest on so much of the purchase money as is for the time being undistributed, at the rate of three and a half per cent. per annum, from the date of the order, or the payment into the Bank, as the case may be, until the whole of the purchase money is distributed, and the said interest shall be paid to the person in receipt of the rents of the land at the date of the agreement for sale, or such other person as may appear to the Land Commission to be entitled thereto.

(3) If, in the case of an estate sold to persons other than the Land Commission, the dividends upon the investments representing the purchase money are insufficient for the payment of the said interest, the deficit shall be paid out of the purchase money. (*e*)

(4) For the purpose of giving effect to this enactment, the Land Commission may, if they think fit, in the case of a terminable charge, satisfy the same by the investment in any securities in which trustees are by law authorised to invest trust money (*f*) of a capital sum the annual income of which will be sufficient to satisfy the annual amount of the charge. (*g*)

(5) The owner of any superior or intervening interest (*h*), or any incumbrancer, may at any time apply to the Land Commission for an order that payment in respect of the annual income of his claim be made to him, out of the interest on the purchase money, or the dividends upon the investments representing the purchase money, as the case may be, and in such case the Commission, if they are satisfied that the justice of the case so requires, may make the order accordingly. (*i*) In this Sub-section the expression "the annual income" shall include the annual amount payable in respect of the premiums on any policy of insurance where those premiums are charged upon land. (*j*)

(6) The Land Commission (*k*) shall, as soon as practicable, distribute the purchase money to the persons entitled thereto whose claims upon that money have been ascertained, and for the purpose of such distribution may ascertain in the prescribed manner (*l*) the amount or value of any such claim, and discharge, redeem, or satisfy the same out of the said money, and any charge or incumbrance may be paid off, notwithstanding any direction, proviso, or covenant to the contrary contained in any instrument. (*m*)

(7) After the vesting order, or the payment into the Bank of Ireland, as the case may be, has been made, no proceedings shall be taken, without leave of the Land Commission, in respect of any claim against the purchase money, or the income thereof.

(8) In the case of the sale of an estate, where at the date hereinafter mentioned arrears of rent were due in respect of any holding on the estate, a sum equivalent in amount to those arrears, but not exceeding in any case one year's rent, shall be paid out of the purchase money to the person who would have been entitled to receive those arrears for his own use. The aforesaid date shall be, in the case of an estate purchased by the Land Commission, the date of the agreement for that purchase, and in the case of an estate purchased by other persons, the date of the agreement for the purchase of the holding. (*n*)

(9) The Land Commission may cause their officers to make such investigations, and perform such other duties, as may be requisite and practicable, for the purpose of ascertaining title to and distributing the purchase money, and such ascertainment and distribution shall, to such extent as may be sanctioned by the Treasury, be made without charge to the persons entitled to the purchase money, and for the purposes aforesaid all searches directed by the Land Commission in the Local Registration of Title Office and Registry of Deeds and Registry of Judgments shall be made without charge. (*o*)

(10) The Land Commission shall have, and may, without application being made to them, exercise, for the purpose of facilitating the completion of sales under this Act, including the distribution of purchase money, all the powers in that behalf conferred on them by the Land Purchase Acts in the case of sales from landlords to tenants.

(11) For the purposes of this Section, the Land Commission shall, in addition to any other powers which they possess, have all the powers vested in the High Court by virtue of Sections seventy-eight and seventy-nine of the Lands Clauses Consolidation Act, 1845, and those Sections shall apply to the Land Commission with such modifications as may be prescribed as if purchase money distributable under this Section were money paid or deposited under those Sections. (*p*)

8 & 9 Vict. c. 18.

(12) Proceedings by the Land Commission under this Section shall not be removed into any Court, or be restrained by any Court (*q*), and, save as provided by this Section and Section forty-one of the Act of 1896 (*r*), no appeal shall lie from any decision of the Land Commission.

(13) An appeal shall lie to the Court of Appeal from any decision under this Section given by a Judicial Commissioner, or to which he is a party, and the decision of the Court of Appeal on any question other than one of law shall be final. (*s*)

PART I.

Sect. 24.

Interest on purchase money.

Where estate sold to L. C.

The rights of a vendor as regards interest on purchase money vary according as the estate is sold to the Land Commission, or direct to the tenants.

First, where estate sold to Land Commission.—There are three distinct periods during which interest is payable under different Sections of the Act.

1. The rents and profits of any land agreed to be purchased by the Land Commission (including any interest in lieu of rent paid by the tenants) are payable to the Land Commission as from the date of the agreement. From that date until the land is vested in the Commission, the Commission pay interest on the purchase money to the vendor at 3½ per cent. (Sect. 18.)

2. As from the date of the vesting of the land in the Commission until the "closing day" (being a day specified in the agreement, not more than twelve months from its date), the Commission pay interest to the vendor at 3½ per cent. on so much of the purchase money as has not been distributed. (Sect. 24 (2).)

3. If on the "closing day" the vendor's title is not established, the rate of interest payable to the vendor is reduced to 2¾ per cent., as from the "closing day," until the establishment of the vendor's title, but no reduction in the interest is to be made where the Land Commission are satisfied that it is not owing to the default of the vendor that his title is not established. (Sect. 25 (2).)

Where estate sold to tenants.

Secondly, where estate sold direct to tenants.—There are in this case also three distinct periods.

1. As from the date of each tenant's agreement to purchase until the date of the advance, interest is payable by the tenant at the rate agreed upon. This rate has hitherto generally been 3½ per cent., but see note (*a*) to Section 18, *ante* p. 70. This interest is collected by the Land Commission for the vendor. (See Section 35 of the Act of 1896 and Section 20 of the Act of 1887. These Sections will be found in Appendix B, *post* pp. 206 and 217.)

2. As from the date of the advance until the closing day the Commission pay interest to the vendor at 3½ per cent. on so much of the purchase money as has not been distributed, but if the dividends produced by the purchase money are insufficient to pay the interest, the deficit is paid out of the purchase money itself. (Sect. 24 (2) and (3).)

3. If on the "closing day" the vendor's title is not established, the rate of interest payable to the vendor is reduced to 2¾ per cent., as from the closing day until the establishment of the vendor's title; but no reduction in the interest is to be made where the Land Commission are satisfied that it is not owing to the default of the vendor that his title is not established. (Sect. 25 (2).)

Purchase money should be invested.

It is provided by Order IX., Rule 2 of the Rules of 4th December 1903 (*post* p. 528), that the purchase money shall, fourteen days after the notification of the advance to the vendor, be invested in 2½ per cent. Consols, unless a Judicial Commissioner shall otherwise direct. If this is done, then, where an estate is sold direct to the tenants, interest at 3½ per cent. cannot be paid without having recourse to the principal. It would, therefore, be desirable for the vendor's solicitor to apply, under Section 25 (4), to have the purchase money invested in some trustee security which would pay a higher rate of interest.*

(*a*) **Sub section one of Section fourteen of the Act of 1887.**—The text of this Section will be found in Appendix B, *post* p. 203.

(*b*) **Make an order.**—The order is made by an Estates Commissioner. See Order IX., Rule 1 of Rules of 4th December 1903, *post* p. 528.

(*c*) **A vesting order made by the Land Commission.**—As to the effect

* See Addenda.

of such an order, see Section 16 and the notes thereto, *ante* p. 50. See also *MacNaghten's Estate*, 38 I. L. T. R. 222.

(*d*) **Subject to the provisions of this Act.**—See Section 25, Sub-sections (2) and (3).

Payment of interest out of principal.

(*e*) There has been a good deal of criticism of this Sub-section, it being alleged that it gives an undue preference to sales to the Commission as compared with sales direct to the tenants. There appear, however, to be good reasons for the distinction between the two cases. Where a landlord sells to the Commission, the Commission become entitled to receive the rents and profits, including interest in lieu of rent at not less than 3½ per cent., as from the date of the agreement until the vesting of the holdings. The Commission can, therefore, if they please, make such arrangements with the tenants as will ensure their being able to pay 3½ per cent. on the purchase money without loss. This they can do by either postponing the vesting of the holdings until the "closing day," or by vesting the holdings at an earlier date, but making the tenants pay more than 3½ per cent. prior to the vesting.

On the other hand, where a landlord sells direct to his tenants, he continues to receive interest in lieu of rent on each holding until vested, and as soon as the holding is vested the Land Commission must pay the purchase money into the Bank of Ireland. The vendor can then immediately apply to have it invested in trustee securities, upon which he ought to be able to get 3½ per cent. It would be unreasonable to expect the Land Commission to pay over the purchase money, and, at the same time, to be liable to pay interest in respect thereof.*

(*f*) **By law authorised to invest trust money.**—As to what are authorised securities, see Section 51 and the notes thereto, *post* p. 102.

Satisfaction of terminable charges.

(*g*) This Sub-section appears to have been introduced to meet the decision in *Alexander's Estate* [1900], 1 I. R. 20, in which ROSS, J., decided that the owner of a terminable annuity could insist upon the redemption of his annuity by payment of the capitalised value thereof, contrary to the wish of the owners of the estate, who desired to have the purchase money retained in Court, and the annuity paid out of the income thereof.

Superior and intervening interests.

(*h*) As to the method of determining the price of superior interests, see Section 64. Ditto intervening interests, see Section 15 (2).

Payment of interest on charges, &c.

(*i*) As to the practice under this Section, see Order IX., Rule 11 of Rules of 4th December 1903, *post* p. 530.

Premiums charged on land.

(*j*) The last clause of this Sub-section is intended to meet the case of a mortgage secured upon the vendor's life interest, and upon a policy of insurance payable upon his death. Such a mortgage usually charges the premiums on the policy upon the life interest in the lands.

(*k*) **Land Commission.**—The distribution is made by a Judicial Commissioner. See Order IX., Rule 3 of Rules of 4th December 1903, *post* p. 528.

(*l*) See note (*h*) above, and see Order IX., Rule 12 of Rules of 4th December 1903, *post* p. 531. There are not two separate jurisdictions to make orders for redemption—one conferred by Section 15 of the Act of 1887—the other by Section 24 of the Act of 1903, but one inseverable jurisdiction conferred by the several enactments construed together. *Per* PALLES, C. B., in *Kemmis' Estate* (No. 2), 38 I. L. T. R. 241.

(*m*) Where a sale is completed and the purchase money ready for distribution less than six months after the filing of the originating application, a mortgagee is not entitled to claim interest in lieu of notice on being paid off, but is only entitled to interest up to date of payment. *Talbot's Estate*, 38 I. L. T. R. 211 (MEREDITH, J.).

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* See Addenda.

PART I.

Sect. 24.

Payment of arrears out of purchase money.

(*n*) The object of Sub-section (8) is to enable a limited owner to obtain payment of arrears which are due to him at the time of the sale, and to prevent the necessity of such arrears being invested along with the rest of the purchase money. The effect of lodging an agreement to purchase is (if the sale is carried out) to discharge the purchaser from all liability in respect of arrears (Section 35, Act of 1896, Appendix B, *post* p. 217), and therefore the practice has always been to add the arrears, or such portion of them as is not forgiven, to the purchase money. If the vendor is a limited owner, the result has hitherto been that so much of the purchase money as represents the arrears has become subject to the settlement, and the vendor has had only a limited interest therein, instead of being absolutely entitled thereto. The same thing occurs where an estate is sold to the Land Commission, as the price which the Commission give represents the purchase money, not only of the estate, but also of all arrears due (see Section 18 (1)), and where the estate is in settlement, the entire purchase money would, were it not for Sub-section (8), become subject to the settlement.

The words, "for his own use," at the end of the first sentence of the Sub-section, are intended to exclude the case of a vendor whose estate is so incumbered that he is not himself entitled to receive the arrears of rent.

Particulars of the vendor's claims under Sub-section 8 should be stated in the allocation schedule (see Order IV., Rule 3 of Rules of 4th December 1903, *post* p. 523).

Investigation of title, &c., by L. C.

(*o*) This Sub-section appears to contemplate the proving of the vendor's title, and the ascertainment of the persons to whom the purchase money is payable, by the Land Commission, the expense of doing so to be borne to some extent by the vendor. This view has not, however, been followed by the Rules which have been published under the Act. According to those Rules the vendor's title is prepared and vouched by his solicitor in accordance with the old practice, and the vendor pays the costs thereof. The following matters, however, which were formerly attended to by the vendor's solicitor, are now dealt with by the Land Commission, and without expense to the vendor, viz.:

(1) The ascertainment of the Crown Rents, Quit rents, and Board of Works charges affecting the lands.—Order II., Rule 2 of Rules of 4th December 1903, *post* p. 522.

(2) The preparation and lodgment of the necessary searches.—Order V., Rule 1, *post* p. 524.

(3) The publication of all necessary notices and advertisements.—Order XIX., *post* p. 538.

Powers of L. C. under Lands Clauses Act.

(*p*) The text of Sections 78 and 79 of the Lands Clauses Consolidation Act, 1845, will be found in Appendix B, *post* p. 171.

For procedure under this Sub-section see Order IX., Rules 4 to 10 of Rules of 4th December 1903, *post* p. 528.

Proceedings of L. C. not to be restrained.

(*q*) **Shall not be removed into any Court, or be restrained by any Court.**—The provisions of this Sub-section are somewhat similar to the provisions of Section 48 (1) of the Act of 1881, which provides as follows: "For the purposes of this Act the Land Commission shall have full power and jurisdiction to hear and determine all matters, whether of law or fact, and shall not be subject to be restrained in the execution of their powers under this Act by the order of any Court, nor shall any proceedings before them be removed by certiorari into any Court."

The effect of this Section was considered in the case of *Ex parte Hutchinson*, 12 L. R. Ir. 79. In that case the Land Commission had fixed a fair rent on a farm of land, and on certain grazing rights appurtenant thereto. The landlord alleged that the Land Commission had no power to fix a rent on

the grazing rights, and that therefore the order was made without jurisdiction. He further contended that, having been made without jurisdiction, Section 48 did not apply—that Section being only concerned with the execution by the Land Commission *of their powers under the Act.* PALLES, C. B., in considering the point said (page 84): "Were I satisfied that the Commissioners had exceeded (or even that a grave question arose whether they had exceeded) their jurisdiction, I, speaking for myself, would have no hesitation in making a conditional order for a prohibition." He however, along with the other members of the Court, decided that the Land Commission had not exceeded their jurisdiction, and therefore refused to make the order sought.

In the case of *Ex parte Johnston* (No. 1), 14 L. R. Ir. 80, the Land Commission fixed a fair rent upon a holding which, subsequently to the fair rent order, was proved not to be the subject of a "present tenancy." The landlord applied for a writ of prohibition on the ground that the Land Commission had acted without jurisdiction. It was decided that the question, as to whether the tenancy was a present one or not, was a question for the decision of the Land Commission, and that even though they decided this question wrongly, the application for the writ of prohibition must fail. PALLES, C. B., in giving judgment (at p. 92) said: "Upon the whole, then, I am clearly of opinion that the Land Commission had jurisdiction to ascertain and determine the terms of the tenancy, and that even if the evidence which has now been brought forward (so far as it appears, for the first time)—showing, as I have already stated it conclusively does, that the tenancy was not a present one—had been before the Sub-commission; and if the Sub-commission, notwithstanding that evidence, held that it was a present tenancy, and fixed a fair rent upon that basis, it would not be open to us to substitute the decision which we think they ought to have made, for the order which in fact has been made. All that we can do, when their decision is complained of, is to see that the case was one within their jurisdiction; and having done so our functions cease."

DOWSE, B., in the same case (at p. 93) said: "I am clearly of opinion that if the Land Commission acts without jurisdiction, or in excess of jurisdiction, authority is vested in this Court to restrain any evil consequences that may arise therefrom."

L. C. may be restrained if they exceed their jurisdiction.

The foregoing cases appear to establish the general principle that so long as the Land Commission acts within its jurisdiction its proceedings cannot be restrained, but that once that jurisdiction is exceeded a writ of prohibition may be issued.

(*r*) **Section forty-one of the Act of 1896.**—This Section will be found in Appendix B, *post* p. 220.*

(*s*) It was decided by the Court of Appeal (FITZGIBBON, L. J., *dub.*) in *Kemmis' Estate*, 38 I. L. T. R. 241, that an appeal lay from an order of the Judicial Commissioner fixing the redemption price of a lay tithe rent-charge, such an order being a "decision" within the meaning of Section 24 (13); but an appeal will not be entertained unless the Court are satisfied that an error has been made on some matter of principle beyond the question of mere amount. *Kemmis' Estate* (No. 2), 39 I. L. T. R. 9.

Closing day.

25.—(1) Where an order is made by the Land Commission attaching claims to the purchase money (*a*), or where an agreement for the purchase of land (*b*) is entered into by the Land Commission, the order or agreement, as the case may be, shall specify a date, in

* See Addenda.

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this Act referred to as "the closing day," being not more than twelve months from the date of the order or agreement.

(2) If on the closing day the title of any person whose claim has been so attached to the purchase money, whether as vendor, or incumbrancer, or owner of a superior or intervening interest, is not established, and if a portion of the purchase money equivalent to the amount of his claim has not been invested in pursuance of the powers conferred by Sub-section one of Section fourteen of the Act of 1887 (*c*), then, until his title is established, interest in respect of the claim shall not be payable out of the purchase money or recoverable under any agreement or covenant (*d*) at a higher rate than the rate payable by the Land Commission to the National Debt Commissioners in respect of outstanding advances: (*e*)

Provided that this Sub-section shall not apply in any case where the Land Commission are satisfied that it is not owing to any act or default of such person that his title is not established and the amount of his claim invested as aforesaid.

For the purpose of this enactment interest shall be calculated on the redemption price of a superior or intervening interest.

(3) If any person interested in the purchase money, by himself or any agent or solicitor, is guilty of any delay in taking any step in the proceedings for the ascertainment of claims which it is his duty to take, or which he has been ordered to take, and such delay is, in the opinion of the Land Commission, inexcusable, the Commission may by Order deprive him of the whole or any part of the interest to which he would have been entitled under the foregoing provisions of this Act.

(4) Notwithstanding anything in this Section any vendor or incumbrancer may apply to the Court to invest the purchase money, pending distribution, in any of the securities from time to time authorised by law for the investment of trust funds. (*f*)

(*a*) **Attaching claims to the purchase money,** *i.e.* under Section 24 (1).

(*b*) **An agreement for the purchase of land.**—See note (*a*) to Section 16, *ante* p. 52.

(*c*) **Sub-section one of Section fourteen of the Act of 1887.**—The text of this Section will be found in Appendix B, *post* p. 203. See also Section 20, Act of 1891, Appendix B, *post* p. 208, which enables the redemption money of a tithe rent-charge annuity, rent-charge or rent to be paid into the Bank of Ireland pending the ascertainment of the rights of the parties interested.

(*d*) **Or recoverable under any agreement or covenant.**—Where money is secured by a mortgage on land, the mortgagee has a twofold security; first, the land; second, the personal covenant of the mortgagor. The above words were inserted with the object of preventing the mortgagee from seek-

ing to recover from the mortgagor, by means of his personal covenant, the difference between the interest mentioned in the deed and 2¾ per cent.

(*e*) *i.e.* 2¾ per cent. (see Section 36 (1), *post* p. 90).

(*f*) The Land Commission have also power to order the investment of the purchase money under Section 14 of the Act of 1887 (see Appendix B, *post* p. 203).

As to what are authorised investments, see Section 51 and the notes thereto, *post* p. 102.

Sale of lunatic's estate.

26. Where a person who would otherwise be entitled to sell land under the Land Purchase Acts is a lunatic, the Lord Chancellor may order the land to be sold as if the sale was required for one of the purposes mentioned in Section sixty-three of the Lunacy Regulation (Ireland) Act, 1871, and that Section shall apply accordingly.

34 & 35 Vict. c. 22.

To enable the land of a lunatic to be sold it is of course necessary that the lunatic should have such an estate in the land as would enable him, were he of sound mind, to sell under the Land Purchase Acts. The question of what constitutes such an estate has been already discussed in the notes to Section 17, to which the reader is referred (see note (*a*), *ante* p. 53). Assuming the lunatic to have such an estate, the Lord Chancellor may, under Section 63 of the Lunacy Regulation (Ireland) Act, 1871, order a sale. The text of Section 63 is as follows:—

Power of sale under the Lunacy Act.

"Where it appears to the Lord Chancellor intrusted as aforesaid to be just and reasonable, or for the lunatic's benefit, he may order that any estate or interest of the lunatic in land or stock, either in possession, reversion, remainder, contingency, or expectancy, be sold or charged by way of mortgage, or otherwise disposed of, as may to him seem most expedient, for the purpose of raising money to be applied, and may accordingly order that the money when raised be applied, for or towards all or any of the purposes following:—

"(1) The payment of the lunatic's debts or engagements;

"(2) The discharge of any incumbrance on his estates;

"(3) The payment of any debt or expenditure incurred or made after inquisition, or authorised by the Lord Chancellor intrusted as aforesaid to be incurred or made, for the lunatic's maintenance or otherwise for his benefit;

"(4) The payment of or provision for the expenses of his future maintenance;

"(5) The payment of the costs of applying for, obtaining, and executing the inquiry, and of opposing the same;

"(6) The payment of the costs of any proceeding under or consequent on the inquisition, or incurred under order of the Lord Chancellor intrusted as aforesaid; and,

"(7) The payment of the costs of any such sale, mortgage, charge, or other disposition as is hereby authorised to be made.

"And the Committee of the estate may and shall, in the name and on behalf of the lunatic, execute, make, and do all such conveyances, deeds, transfers, and things relative to any such sale, mortgage, charge, or other disposition as aforesaid, and for effectuating this present provision, as the Lord Chancellor intrusted as aforesaid shall order."

The reader will note that under Section 63 the sale could only be ordered for one of the specific purposes mentioned in that Section. Now, under

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Section 26 of the Act of 1903, the Lord Chancellor may order a sale although the proceeds of the sale are not required for any of the purposes mentioned in Section 63.

As to payment of the bonus when a sale is made under an order of the Lord Chancellor, see Section 3, Act 1904, *post* p. 166.

Where lunatic entitled to undivided share.

Section 74 of the Lunacy Regulation (Ireland) Act, 1871, provides that where a lunatic is entitled to an undivided share of land, the Committee may, under an order of the Lord Chancellor, concur in making a sale thereof.

Provisions of various Land Acts.

Section 61 of the Act of 1870 provides that the Committee of the estate may make any application, give any consent, do any act, and be party to any proceedings on behalf of the lunatic, and that if there is no committee the Court may appoint one for the purpose of any proceedings under the Act. This Section is incorporated in the Act of 1881 by Section 38 thereof.

Section 73 of the Landed Estates Court Act, 1858, contains similar provisions to Section 61 of the Act of 1870, and is incorporated in the Act of 1885 by Section 10 thereof.

Where lunatic tenant for life.

Section 62 of the Settled Land Act, 1882, provides that, "Where a tenant for life, or a person having the powers of a tenant for life under this Act, is a lunatic, so found by inquisition, the committee of his estate may, in his name and on his behalf, under an order of the Lord Chancellor, or other person intrusted by virtue of the Queen's Sign Manual with the care and commitment of the custody of the persons and estates of lunatics, exercise the powers of a tenant for life under this Act; and the order may be made on the petition of any person interested in the settled land, or of the committee of the estate."

As to payment of the bonus when a sale is made under this Section, see Section 3, Act 1904, *post* p. 166.

In the case of a lunatic as well as of any other tenant for life, notice under Section 45 of the Settled Land Act, 1882 (see Appendix B, *post* p. 193), must be served upon the trustees, and, if necessary, trustees must be appointed for the purposes of the Act. *Re Taylor*, 31 W. R. 596; W. N., 1883, 95; 52 L. J. Ch. 728.

Practice.

For particulars of the practice in Lunacy where it is desired to sell a lunatic's estate, see Colles' "Lunacy Act and Orders," 2nd edit., pp. 84 and 85. As to sales to tenants of unsound mind, see General Order of 8th February 1905, *post*, p. 351.*

General Finance.

Substitution of cash payments for guaranteed land stock.

27. Advances for the purposes of the Land Purchase Acts shall, in the case of agreements entered into after the passing of this Act (*a*), be made by means of money and not by means of guaranteed land stock; and any sums required for those purposes shall be issued out of a special fund, to be under the control of the National Debt Commissioners, and to be called the "Irish Land Purchase Fund."

(*a*) "Agreements entered into after the passing of this Act," mean agreements entered into after 14th August 1903, and not agreements entered into after 1st November 1903—the date upon which the Act came into operation. Accordingly an agreement entered into between 14th August 1903, and 1st November 1903, to purchase for £1100 a holding held under a letting made after 1st January 1901, was rejected on the grounds: (1) That the

* See Addenda.

agreement having been entered into after the passing of the Act of 1903 the advance could only be made under the provisions of that Act; and (2) that Section 53 of the Act provided that not more than £500 could be advanced in respect of a holding held under a letting made subsequently to 1st January 1901. *Clarke's Estate*, 4 N. I. J. R. 1.

Raising of new 2¾ per cent. stock.

28.—(1) For the purpose of raising the money required for the Irish Land Purchase Fund, the Treasury may by warrant addressed to the Bank of England, or Bank of Ireland, direct the creation of a new capital stock (to be called "Guaranteed two and three-quarters per cent. stock," and in this Act referred to as "the stock") consisting of perpetual annuities, yielding dividends at the rate of two and three-quarters per cent. per annum on the nominal amount of the capital.

(2) The annuities shall be payable by equal half-yearly or quarterly dividends at such times in each year as may be fixed by the warrant first creating the stock.*

(3) The stock shall not be redeemable until after the expiration of thirty years from the commencement of this Act, but on and after that date shall be redeemable, after three months notice published in the London Gazette and in the Dublin Gazette, at the rate of one hundred pounds sterling for every one hundred pounds of stock, together with the payment of all arrears of interest.

(4) Any sums raised by means of the stock, after providing for the expenses of issue, shall be carried to the credit of the capital account of the Irish Land Purchase Fund.†

(5) The stock may be issued at such times, in such amounts, and subject to such conditions as to payment of deposits and instalments, and the issue of scrip certificates carrying dividends, and otherwise, as the Treasury direct.

Charge on Consolidated Fund.

29.—(1) The dividends on the stock shall be paid out of the income of the Irish Land Purchase Fund, and if that income is insufficient, shall be charged on and paid out of the Consolidated Fund of the United Kingdom or the growing produce thereof.*

(2) Any sums so paid out of the Consolidated Fund shall be treated as a temporary advance to the Irish Land Purchase Fund, and shall be made good out of the Guarantee Fund.*

Temporary borrowing by National Debt Commissioners.

30. Instead of issuing stock, the Treasury may authorise the National Debt Commissioners to borrow temporarily for the purposes of the Irish Land Purchase Fund, on such terms as the Treasury may approve, and any sums so authorised to be borrowed may be lent by the National Debt Commissioners out of any cash balance in their hand available for investment, or by the Bank of England, or Bank of Ireland, and shall be repaid out of the next subsequent

* See Treasury Regulations of 14th April 1905, *post* pp. 355, 357.
† See Treasury Regulations of 14th April 1905, *post* p. 354.

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issue of the stock, or out of any money standing to the credit of the capital account of the Irish Land Purchase Fund. The interest on any money so borrowed shall be charged on the income of the Irish Land Purchase Fund in like manner as dividends on stock.

Transfer of stock.

31. The stock shall be transferable in the books of the Bank of England and the Bank of Ireland in like manner as other stock transferable under the National Debt Act, 1870, and shall be subject to the provisions of that Act, and any enactment amending that Act, so far as is consistent with the tenor of this Act.

33 & 34 Vict. 71.

Remuneration of Banks of England and Ireland.

32. For the purpose of calculating the annual sums payable to the Bank of England and the Bank of Ireland for the management of the National Debt, the stock shall be considered as part of the National Debt inscribed in the books of the Bank of England and the Bank of Ireland, but the annual sums so payable shall be paid as part of the expenses of the Land Commission.

Accounts of National Debt Commissioners.

33. Accounts of the receipts and expenditure of the Irish Land Purchase Fund, both as regards capital and income, shall be kept by the National Debt Commissioners, and those accounts shall be audited by the Comptroller and Auditor-General, and the accounts when audited shall be laid before Parliament.

Employment of balances by National Debt Commissioners.

34.—(1) Any money for the time being standing to the credit of the capital or income account of the Irish Land Purchase Fund may be applied in payment of any sums charged on that Fund, or for advances under this Act.

(2) Any balance standing to the credit of the capital or income account of the Irish Land Purchase Fund may be temporarily invested by the National Debt Commissioners in manner approved by the Treasury.

Land Commission Accounts.

35.—(1) For the purposes of this Act, the Land Commission shall keep such accounts, containing such particulars and entries as the Treasury may direct, and shall furnish those accounts to the Treasury as and when required by the Treasury.

(2) The accounts of the Land Commission shall be audited in such manner as the Treasury may prescribe.*

Repayment by Land Commission to National Debt Commissioners.

36.—(1) Interest at the rate of two and three-quarters per cent. per annum shall be paid by the Land Commission to the National Debt Commissioners on all sums advanced under this Act by the National Debt Commissioners to the Land Commission and not certified by the Commissioners to have been repaid. †

(2) Where advances are made by the Land Commission the Land Commission shall, until the advances are ascertained to have been repaid, pay to the National Debt Commissioners in respect of those advances ten shillings per cent. per annum, which shall

* See Treasury Regulations of 14th April 1905, *post* p. 361.

† See Treasury Regulations of 14th April 1905, *post* p. 356.

be treated as a sinking fund for accumulation, and for this purpose shall be credited to the capital account of the Irish Land Purchase Fund, and applied to the purchase of the stock, or invested in further advances under this Act, or temporarily invested in the purchase of securities approved by the Treasury.*

(3) Where the Land Commission purchase any land, no sums on account of sinking fund shall be payable until the Land Commission have disposed of that land to purchasers, or until the expiration of five years from the vesting of the land in the Commission, whichever shall be the sooner, but during any period which may intervene, between the expiration of the five years and the disposal of the land, payments on account of sinking fund shall be made at the rate of ten shillings per cent. per annum.*

(4) If at any time the said annual payments shall be in arrear for forty days, the amount in arrear shall be charged on, and forthwith made good out of, the Guarantee Fund.† *

(5) Payments by the Land Commission under the preceding Sub-sections shall be made at such times in each year as may be prescribed by the Treasury.*

(6) Where, by reason of any stock having been issued at a discount, the sums payable in any financial year by the Land Commission under this Section, in respect of advances to them of money raised by means of stock. are insufficient to pay the dividends on the total amount of the stock outstanding, together with ten shillings per cent. on the portion of the stock representing the advances on which such ten shillings per cent. is payable by the Land Commission, the amount of the deficiency shall be made good out of the Guarantee Fund.† *

(7) Where, by reason of the issue of any stock at a premium, the sums payable in any financial year by the Land Commission under this Section, in respect of advances to them of money raised by means of stock, are more than sufficient to pay the dividends on the total amount of the stock outstanding, together with ten shillings per cent. on the portion of the stock representing the advances on which such ten shillings per cent. is payable by the Land Commission, the surplus shall be applied in the first instance in repaying, in manner prescribed by the Treasury, to the Guarantee Fund any sums paid out of that fund under the preceding Sub-section, and any balance shall be carried to a reserve account, and applied in or towards discharging any future liability of the Guarantee Fund under the preceding Sub-section, or to such other purposes connected with the Irish Land Purchase Fund as the Treasury may approve.†

* See Treasury Regulations of 14th April 1905, *post* p. 356.
† See Treasury Regulations of 14th April 1905, *post* pp. 354, 357.

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Drafts on Land Purchase Fund.

37. The Lord Lieutenant, with the approval of the Treasury, may make regulations for the purpose of determining the persons entitled to draw on the Irish Land Purchase Fund on behalf of the Land Commission, and the manner in which drafts may be made.

Allocation of portion of Irish development grant to land purchase.

38. If by any Act passed in the present session, provision is made for an Ireland development grant, the following provisions shall have effect:—*

Out of this grant a sum of twenty thousand pounds shall in each financial year be paid to the Congested Districts Board, and a sum of fifty thousand pounds shall, in each financial year, up to and including the year ending on the thirty-first day of March nineteen hundred and seven, be carried to the income account of the Irish Land Purchase Fund, and the residue of the grant during the period aforesaid, and subsequently the whole grant, shall form part of the cash portion of the Guarantee Fund. So far as any portion of the amount so credited to the Guarantee Fund is required for the purpose of making good any deficiency in respect of the issue at a discount of any stock issued under this Act, that portion shall be applied for that purpose next before the grant described, in Section five of the Act of 1891, as the Irish Probate Duty Grant, and now represented by the death duty grant payable under Section nineteen of the Finance Act, 1894, and any portion of the remainder required for the purposes of the Guarantee Fund shall be applied thereto next after the agricultural grant under the Local Government (Ireland) Act, 1898.

57 & 58 Vict. c. 30.

61 & 62 Vict. c. 37.

Trinity College, Dublin.

39.—(1) There shall be paid to the public trustee out of the Ireland Development Grant, subject to the provisions of the last preceding Section, the sum of five thousand pounds per annum for the account of Trinity College, Dublin.

(2) The said sum shall be applied by the public trustee in indemnifying the college against any loss of income arising from the redemption under the Land Purchase Acts of any superior interest owned by the college, that is to say, the difference between the annual income payable in respect of the superior interest and the annual income of the investment in which the redemption money of the superior interest is invested. (*a*)

(3) Any portion of the said sum of five thousand pounds which in any year is not required to make good loss of income to the college, and any accrued interest thereon, shall be invested by the public trustee, and may be applied in any subsequent year to make good future loss.

* See Treasury Regulations of 14th April 1905, *post* pp. 354, 357.

(4) The investment of the redemption money of any superior interest owned by the college shall be made and may only be varied in accordance with the advice of the public trustee.

(*a*) It was decided by MEREDITH, J., in *Close's Estate* (39 I. L. T. R. 26) that Section 39 does not diminish the compensation the college would be entitled to receive if that Section had not been passed. There was an appeal in this case, but the decision of MEREDITH, J., was not questioned on the Appeal. See notes, p. 141 *post*.

Amendment of law relating to Guarantee Fund.

40.—(1) After the thirty-first day of March next after the passing of this Act, there shall be paid to the Guarantee Fund, in respect of the cash portion thereof, the agricultural grant under the Local Government (Ireland) Act, 1898, and the said grant shall be applicable to the purposes of the cash portion of the said Guarantee Fund next after the death duty grant payable under Section nineteen of the Finance Act, 1894.*

61 & 62 Vict. c. 37.

57 & 58 Vict. c. 30.

(2) The annual sum payable under paragraph (*b*) of Section fifteen of the Agricultural and Technical Instruction (Ireland) Act, 1899, shall form part of the contingent portion of the Guarantee Fund, and shall be available for the purposes thereof next after the grant substituted for the grant in aid of the cost of maintenance of pauper lunatics.

62 & 63 Vict. c. 50.

(3) Instead of the limit of twenty-five times the share of a county in the Guarantee Fund imposed by Sub-section one of Section nine of the Act of 1891, there shall be substituted the limit of thirty times such share.

(4) Instead of the limit of fifty times the share of a county in the Guarantee Fund imposed by Sub-section one of Section one of the Purchase of Land (Ireland) Act, 1901, there shall be substituted the limit of sixty times such share.

1 Edw. 7, c. 3.

Power to adapt previous provisions.

41. The power of making rules conferred on the Treasury by the Land Purchase Acts shall extend to the making of rules for carrying the financial provisions of this Act into effect, and for adapting to the requirements of this Act such provisions of the Land Purchase Acts, passed prior to this Act, as relate to finance.

Power to invest in stock.

42. All persons, including the National Debt Commissioners, shall have the like power of investing in the stock as they have in consolidated stock.

Provision for expenses of improvements.

43.—(1) The Treasury may, on the request of the Land Commission, direct the advance out of the reserve fund established under paragraph (*b*) of Sub-section two of Section five of the Act of 1891, of such sums as the Land Commission may certify to be required for the benefit or improvement by them of estates and untenanted land.

(2) The Land Commission may at any time repay to the said reserve fund any portion of the amount so advanced.

* See Treasury Regulations of 14th April 1905, *post* p. 354.

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(3) Regulations made by the Treasury may provide that where the Land Commission have expended money on the improvement of an estate, and in consequence have sold parcels of that estate at an enhanced price to tenants or others, the National Debt Commissioners may advance to the Land Commission, for repayment to the reserve fund, such sums as represent the increase of price consequent on the improvements.*

(4) Where the Land Commission have expended money on the improvement of a holding, any increase of price obtained by them, in consequence of any improvements effected on the holding, shall not be taken into account for the purposes of Section one of this Act.

Provision for sale at a loss of congested estates.

44.—(1) On the completion of the re-sale of any congested estate purchased by the Land Commission an account shall be prepared showing the profit or loss in connection with the purchase and re-sale of the whole of the congested estates purchased and re-sold up to date.†

(2) If the account shows on the whole of the transactions a net loss, that is to say, an excess in the amounts paid by the Land Commission over the capital sums realised by the Land Commission for re-sales, interest at the rate of two and three-quarters per cent. and sinking fund at the rate of ten shillings per cent. per annum on the amount of the said net loss, within a limit of ten per cent. per annum of the aggregate sums realised by the re-sale of the estates, shall, in accordance with rules made by the Treasury, be paid as part of the expenses of the Land Commission, and credited to the Irish Land Purchase Fund, until the amount of the loss is discharged.

(3) In calculating the profit and loss on the purchase and re-sale of congested estates, no account shall be taken of any money expended by the Land Commission for the benefit or improvement of the estates, nor of any increase of price obtained by them in consequence of such expenditure.

Repayments by Purchasers.

Payment to Land Commission in respect of advances.

45. As regards advances under the Land Purchase Acts in pursuance of agreements entered into after the passing of this Act—

(1) Every advance shall be repaid, in the manner and at the times prescribed by the Treasury (*a*), by means of a purchase annuity calculated at the rate of three pounds five shillings for every hundred pounds of the advance, and so in proportion for any less sum : ‡

* See Treasury Regulations of 14th April 1905, *post* p. 358.
† See Treasury Regulations of 14th April 1905, *post* p. 353.
‡ See Treasury Regulations of 14th April 1905, *post* p. 359.

(2) The purchase annuity shall be paid until the whole of the advance in respect of which it is payable is ascertained in manner prescribed by the Treasury to have been repaid: *

(3) Section twenty-five of the Act of 1896 (*b*), relating to the mode of calculating purchase annuities, shall not apply.

Annuity payable for 68½ years.

There is no provision in the Act as to the period for which purchase annuities are payable, but it was stated by Mr. Wyndham in his speech introducing the Bill, that such annuities would be payable during a period of sixty-eight and a half years. It was further stated that of the £3, 5s. payable for every £100 of advance, £2, 15s. thereof represents interest, and 10s. thereof sinking fund.

Sinking Fund.

(*a*) **Prescribed by the Treasury.**—The Treasury Rules of 14th April 1905 (*post* p. 359) provide as follows:—

Treasury Rule.

The annuity payable under Sub-section 1 of Section 45 of the Irish Land Act, 1903, in respect of any advance under the Land Purchase Acts in pursuance of an agreement entered into after the passing of the Irish Land Act, 1903, shall be payable by equal half-yearly instalments on the first day of June and the first day of December in each year.

If an advance is made on one of the said gale days, the annuity shall commence on that gale day, and the first half yearly instalment thereof shall accordingly be payable on the next succeeding gale day.

If the advance is not made on one of the said gale days, the annuity shall commence on the first gale day after the date of the advance, and the first half yearly instalment thereof shall accordingly be payable on the next succeeding gale day; but there shall be payable on the first gale day after the date of the advance interest on the advance at the rate of two and three-quarters per cent. per annum from the date of the advance.

Purchase annuities under Act of 1896.

(*b*) **Section twenty-five of the Act of 1896.**—Prior to the Act of 1903 purchasers' annuities were calculated under the provisions of this Section. It provided—

(1) That during the first decade of the annuity interest should be payable upon the entire advance.

(2) That at the end of the first decade a calculation should be made showing the amount of the advance which had been repaid by means of the sinking fund, and the balance which still remained due.

(3) That during the second decade interest on such balance only should be payable.

(4) That at the end of the second decade a calculation should be made showing the amount of the advance still remaining due.

(5) That during the third decade interest on such balance only should be payable.

(6) That at the end of the third decade a calculation should be made showing the amount of the advance then remaining due.

(7) That during the residue of the term (*i.e.* forty-three years) interest on such balance only should be payable.

The annuity was payable for a term of seventy-three years, and the interest (including the sinking fund) was calculated at 4 per cent.

Section 9 (4) of the Act of 1891 is as follows: "An advance shall not be made under the Land Purchase Acts, as amended by this Act, for the pur-

* See Treasury Regulations of 14th April 1905, *post* p. 360.

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Advance cannot be made for purchase of holding subject to annuity.

chase of any [illegible] ase of which advances have been made under the Land [illegible] ther before or after the passing of this Act, and whethe[illegible] r otherwise, until the entire annuity for the repayment o[illegible] es has been paid off or redeemed." In *O'Connor's Estate* (3[illegible] R. 171, MEREDITH, J.), lands were being sold in the Land Judges Court by the Board of Works to recover arrears of an annuity payable to them in respect of an advance under the Act of 1870. The owner was made a Court tenant and applied to the Land Commission for an advance to enable him to purchase his holding. *Held* that, in view of the above Sub-section, the advance could not be made.

Redemption of purchase annuities.

46.—(1) Every purchase annuity under this Act, or any part thereof at any time outstanding, may be redeemed in whole or in part by the person liable to pay that annuity by payment to the Land Commission of the difference between the accumulated sinking fund and the sum sufficient (after payment of interest to date) to purchase the requisite amount of stock, such amount to be determined in accordance with rules made by the Treasury.*

(2) Where a purchase annuity or any part thereof is redeemed the National Debt Commissioners shall, in manner prescribed by the Treasury, cancel the aforesaid amount of the stock.*

(3) Any rules under this Section shall, as soon as may be after they are made, be laid before both Houses of Parliament.

Land Purchase Aid Fund.

A[illegible]ase

47.—(1) There shall be established, as part of the Irish Land Purchase Fund, (*a*) a fund to be called the "Land Purchase Aid Fund," and there shall, in each financial year, be paid out of that fund to the Land Commission such sums as the Treasury, on the request of the Land Commission, may sanction, provided that the total of the sums so paid shall not exceed twelve million pounds.†

(2) The sums required for the Land Purchase Aid Fund shall be raised by the issue of guaranteed two and three-quarters per cent. stock as by this Act provided, (*b*) and a sum sufficient to pay the dividends on the amount of stock issued for the purposes of this Section, together with ten shillings per cent. per annum by way of sinking fund, shall be paid in each year to the Irish Land Purchase Fund out of money provided by Parliament.

(3) The provisions of this Act (*c*) with reference to the repayment of advances by the Land Commission to the National Debt Commissioners shall not apply to advances under this Section.

(*a*) **Irish Land Purchase Fund.**—Is the fund out of which advances for the purchase of estates and holdings are made; see Section 27, *ante* p. 88.

(*b*) **As by this Act provided.**—See Section 28, *ante* p. 89.

(*c*) **The provisions of this Act.**—See Section 36, *ante* p. 90.

* See Treasury Regulations of 14th April 1905, *post* p. 360.

† See Treasury Regulations of 14th April 1905, *post* p. 361.

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48.—(1) For the purpose of aidi[illegible] [illegible]tes under this Act, the Land Commission may, (*a*) in [illegible], manner and at the prescribed time, out of advances by [illegible]l Debt Commissioners from the said fund, (*c*) pay to the [illegible]or (*d*) of each estate (*e*) sold a sum calculated at the rate of twelve per cent. on the amount of the purchase money advanced under the Land Purchase Acts.

Allocation of fund.

Provided that, where an estate is so incumbered that the vendor is not entitled to receive for his own use any part of the rents or profits thereof, (*f*) or where the percentage is payable in respect of an estate sold by the Land Judge, (*g*) the percentage shall be added to the purchase money and shall not be paid to the vendor.

(2) In estimating the amount of the purchase money on which the percentage is to be payable, the price of any land resold to the vendor (*h*) of an estate shall be excluded.

(3) After the expiration of five years from the commencement of this Act, and thereafter at each quinquennial period, the Treasury may revise the percentage for the purpose of adjusting the relation between the unexpended balance of the fund (*i*) and the claims which may be made upon it, and in such case the revised percentage shall apply to all agreements for the purchase of estates entered into after the date of its publication.

(4) This Section shall not apply to any estate sold by the Land Judge where the estate is so circumstanced that it would, independently of the Act of 1896, be sold without the consent of the owner as to price, or to any estate so circumstanced in respect of which an absolute order for sale by the Land Judge was in force at the date of the passing of this Act, (*j*) or to any estate sold by a mortgagee in possession. (*k*)

L. C. have no power to withhold bonus.

(*a*) **May.**—In *King-Harman's Estate* (38 I. L. T. R. 102) the question was raised as to whether the Land Commission had power to withhold the bonus in respect of property which the Estates Commissioners had declared to be an "estate." MEREDITH, J., when giving judgment said (at p. 104): "Assuming, then, that the result of the inquiries has been satisfactory, that the Estates Commissioners have come to the conclusion that the estate is fit to be regarded as a separate estate, that an agreement has been arrived at with the vendor as to price, and that the Estates Commissioners have made a vesting order vesting the fee simple of the entire estate in themselves, have the Land Commission power to say no 'bonus' is payable in respect of this estate? In my opinion the Land Commission have no such power. I think the word 'may' in Section 48, according to the principle laid down in *Sweeny* v. *Lord Ashtown* and in *Julius* v. *Bishop of Oxford*, imposes a duty on the Land Commission which must be fulfilled, provided the circumstances pointed to in the Statute exist. . . . Taking the Section as a whole . . . I am forced to the conclusion that 'may' means 'must,' and that the Land Commission are bound to pay the percentage on the purchase money advanced under Section 27."

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(*b*) **Prescribed.**—See Order X. of Rules of 4th December 1903, *post* p. 531. See also Order IV. Rule 3 of the same Rules, *post* p. 523.

(*c*) **Said fund,** *i.e.* the Land Purchase Aid Fund established by Section 47.

Bonus may be paid to trustees for sale, &c.

(*d*) **Vendor.**—A question having been raised in *Ely's Estate* ([1904] 1 I. R. 66) as to whether trustees for sale were "vendors" within the meaning of the Section, Ross, J., in giving judgment (at p. 83) said that he was of opinion that "vendor" included all classes of persons or bodies corporate who could sell under the Land Purchase Acts, and included trustees express or constructive.

In *King-Harman's Estate* (38 I. L. T. R. 102) a similar question having been raised, MEREDITH, J., said (at p. 105) that he adopted the language used by Mr. Justice Ross in *Ely's Estate*, and then proceeded to quote the passage above referred to.

The Act of 1904 now provides that the percentage may be paid to any vendor, other than the Congested Districts Board, whether such vendor is a person entitled to a beneficial interest in the land sold or is a trustee or other person not so entitled. (See Section 2, *post* p. 165.)

Limited owner is absolutely entitled to bonus.

In *Ely's Estate* [1904] 1 I. R. 66, Ross, J., decided that where the bonus is paid to a vendor who is tenant for life it does not belong to him absolutely, but becomes subject to the trusts of the settlement. The Act of 1904, however, now provides that, where the vendor is a limited owner, he becomes absolutely entitled to the bonus. (See Section 3 (1), *post* p. 166.)

Effect of after-acquired property clause in settlement.

In *Annally's Trusts* (53 W. R. 150) the facts were as follows: A was tenant for life of real estate under a real estate settlement, and was also tenant for life of personal estate under a personal estate settlement of even date. The latter deed contained a covenant by A for settlement of after-acquired property, except "her estate or interest in the real estate subject to the will and codicil of the late Henry Viscount Clifden, her interest in which is settled by the real estate settlement before mentioned." The property subject to the real estate settlement was sold under the Act of 1903, and the question arose as to whether the bonus was captured by the after-acquired property clause in the personal estate settlement. KEKEWICH, J., *held* that it was an interest in the real estate, and consequently excluded from the after-acquired property clause. *Held* further that under the Act of 1904 it belonged to A for her own use.*

No bonus unless there is an "estate."

(*e*) **Estate.**—In order to entitle the vendor to the bonus the property sold must have been declared to be an "estate" either by the Estates Commissioners or by the Congested Districts Board: see *Leonard's Estate*, 38 I. L. T. R. 204. It has already been explained that there are now two systems by which properties can be sold under the Land Purchase Acts: one, the system in vogue prior to the Act of 1903, the other the system established by that Act. Where a sale takes place under the old system the property cannot apparently be declared to be an "estate," and no bonus would therefore seem to be payable. See note (*a*) to Section 23, *ante* p. 77, where the matter is fully discussed.†

As to the classes of property which can be declared to be "estates," see note (*a*) to Section 98, *post* p. 160. See also the Act of 1904, Section 1, *post* p. 165.

Bonus and insolvent estates.

(*f*) This clause provides that where the estate is *insolvent as to income*, the bonus is to be added to the purchase money. Sub-section (4) provides that where the estate is *insolvent as to capital* and is sold by the Land Judge, no bonus is to be paid. A curious result of the proviso in Sub-section (1) is that

* This decision was followed by MEREDITH, J., in *Annally's Estate* (5 N. I. J. R. 117), but he intimated that, if the same question should arise in a different case, he would have to give it full consideration before pronouncing judgment.

† See Addenda.

if an estate is solvent as to income but insolvent as to capital, the bonus is paid to the vendor although the mortgagees are not being paid in full. On the other hand, if the estate is solvent as to capital but insolvent as to income, the bonus is added to the purchase money in place of being paid to the vendor, and this even although the mortgagees would be paid in full without having recourse to the bonus at all.

Where undivided share of estate insolvent.

As to the payment of a bonus when an undivided share of an estate is solvent and the other undivided shares insolvent, see note (*j*) to this Section, *post* p. 102.*

(*g*) This only applies to solvent estates sold by the Land Judge. No bonus is payable in respect of insolvent estates sold by him; see Sub-section (4), *ante* p. 97.

(*h*) **Resold to the vendor,** *i.e.* under Section 3, *ante* p. 12.

(*i*) **The unexpended balance of the fund.**—Section 47 provides that the total of the Land Purchase Aid Fund is not to exceed £12,000,000.

Insolvent estates in L. J. Court.

(*j*) The object of Sub-section (4) is to withhold the bonus in those cases where a sale *must* take place. The bonus is offered as an inducement to owners to sell; where a sale is imperative the bonus is superfluous. Every insolvent estate in the Land Judges Court which is agricultural or pastoral in character *must* (unless all parties interested consent to the sale being abandoned) be sold to the tenants under some of the provisions of the Land Purchase Acts, and therefore in such cases it is unnecessary to bribe the owner to sell. As, however, it is possible for the owner, with the consent of all interested persons, to withdraw the estate from Court and have the petition dismissed (*Owen's Estate* [1897], 1 I. R. 200; *Bunbury's Estate* [1901], 1 I. R. 248), the framers of the Act provided in the second clause of Sub-section (4) that no bonus is to be payable in respect of an insolvent estate which is taken out of Court and sold to the tenants through the Land Commission. The intention of the Act is therefore apparently to deprive all insolvent estates in the Land Judges Court of the bonus. There has been considerable discussion as to whether this intention has been effectually carried out by the Act, and various schemes have been proposed with a view to obtaining payment of the bonus, in respect of estates of the character above mentioned. Two of these schemes will now be described; the first being intended to capture the bonus for the owner, the second for an incumbrancer who would not otherwise be paid.

Two schemes for getting bonus.

First scheme:—

As to rendering an estate solvent and so getting bonus.

That the owner of the estate should pay off sufficient of the incumbrances on the estate to render it solvent, whereupon he would become entitled to the bonus in the same manner as the owners of other solvent estates sold by the Land Judge.

It is obvious that the validity of this scheme turns upon the date at which the solvency or insolvency of the estate is to be ascertained. If the Section means that no estate which was insolvent *at the date of the Act* is to get the bonus, then no subsequent manipulation of the incumbrances would avail. If, however, the crucial date is the date of the sale in respect of which the bonus is claimed, there seems to be no reason why an estate which has become solvent by that time (no matter by what means) should not receive the bonus.

What, then, is the crucial date? It is submitted that it is the date of the sale.

The words upon which the question turns are: "Where the estate is so circumstanced that it would, independently of the Act of 1896, be sold with-

* See Addenda.

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out the consent of the owner as to price." These words are practically identical with the words of Section 40 of the Act of 1896, which prescribe the conditions necessary to bring an estate within that Section. The words of Section 40 are: "Where . . . the estate is so circumstanced that it would, independently of this Act, be sold without the consent of the owner as to price." It is a reasonable inference that where identical words are used (and manifestly used intentionally) in the same code, an identical meaning was intended to be attributed to them. If this be so, then any estate to which Section 40 of the Act of 1896 would not apply, would also lie without the operation of Section 48 (4) of the Act of 1903. The words "without the consent of the owner as to price" were considered in *Grogan's Estate* [1896], 1 I. R. 614, when Ross, J., decided that although in one sense every incumbered estate could be sold without the consent of the owner as to price, yet the Section only applied to those incumbered estates that were insolvent. The date at which the insolvency of the estate is to be ascertained was not, however, considered in the case.

Section 40 of the Act of 1896 was held to be mandatory as regards all cases which came within its provisions (*Owen's Estate* [1897], 1 I. R. 200; 31 I. L. T. R. 16); yet in *White's Estate* (3 I. W. L. R. 171), Ross, J., holding that there was a probability that the estate might right itself, refused to issue a request, *i.e.* he apparently considered that Section 40 would not apply unless the estate was insolvent *at the date of the sale*. The time at which the applicability of Section 40 is considered is the occasion when the case appears in the Judge's list for the issue of a request, that is to say (if the Section applies), immediately before the sale. If the estate is *then* found to be solvent, the Section does not apply, even though the estate was insolvent at the time the absolute order was made.

It is submitted that if an estate was insolvent at the date of the absolute order, or even at the date of the Act of 1903, but, either by careful management or as the result of circumstances, had become solvent by the time of the sale, the bonus would in that case be payable. For example, take the case of an estate with a rental of £1000 a year, subject to a head rent of £500 and to a jointure of £800, payable for a life aged twenty-one years. During, at all events, the first few years that the jointure is payable, the estate is insolvent both in point of capital and in point of income. Suppose the jointress dies a month after the passing of the Act of 1903, thus rendering the estate solvent, and suppose that the estate is sold some time in the year 1905, surely it would be entitled to the bonus. If this be so, then the date of sale, and not the date of the Act, is the crucial date with regard to such a case. If so, the date of the sale must be the crucial date in all cases, as a different rule cannot be applied to each different case. If the date of the sale is the crucial date, then it is submitted that every estate which is solvent at that date is entitled to the bonus, no matter under what circumstances it became solvent.

If this be the true meaning of the Section, it would seem to follow that if an estate become solvent while under the jurisdiction of the Land Judge and then be withdrawn from his Court, the bonus would be payable in a subsequent sale under the Estates Commissioners.

Second scheme:—

Buying in estates and reselling them so as to get bonus.

That an incumbrancer should, on the consideration of the Report of the Land Commission under Section 40, or on consideration of the offer of the Estates Commissioners under Section 7, bid a larger sum than the price offered by the Land Commission, and thus become the purchaser of the estate. That, having become the owner, he should proceed to sell the property under the Estates Commissioners, and thus become entitled to the bonus.

The success of this scheme, like the first, seems to depend upon the date at which the solvency of the estate is to be considered. If that date is the date of the sale by the Land Judge, the scheme falls to the ground. If, on the contrary, the crucial date is the date of the sale in respect of which the bonus is claimed, then the scheme appears feasible. Before going further let us consider the objects which the drafter of the Section had in view. He apparently intended to withhold the bonus in two cases.

1. Where an insolvent estate is sold by the Land Judge.

2. Where such an estate is taken out of Court, and while still insolvent sold through the Estate Commissioners.

There seems to be no question but that the Section effectually provides for these two cases. The case of an incumbrancer buying in an estate and subsequently re-selling it to the tenant probably never occurred to the draftsman, and the question is: does the Section cover such a case? Before we examine this particular case, let us consider some others, which, though similar, are not so extreme in character. When dealing with the first scheme it has been contended, that if an estate becomes solvent prior to the date of sale the bonus is payable. If this contention is unsound, the second scheme, like the first, is unsound also. Assuming the contention to be well founded, we may go a step further and say that if an insolvent estate is taken out of Court and immediately thereupon (by the death of a jointress or otherwise) becomes solvent, and is then sold through the Estates Commissioners, it will receive the bonus. If this were not so, there would be this absurd result, that the estate if left in Court would receive a bonus, but if taken out of Court would get none.

Let us now take the case of a piece of untenanted land for sale in the Land Judges Court, the interest of the owner therein being insolvent. Let us suppose that this land is sold by the Land Judge under an absolute order in force at the date of the passing of the Act, and that the purchaser thereof subsequently lets it out to tenants. Suppose that the purchaser then proceeds to sell under the Land Purchase Acts, could it be contended that Sub-section (4) would deprive him of the bonus? It is apprehended that it could not. If the conclusions arrived at in these two cases be right, the first appears to establish the principle that the date of the withdrawal of the estate from the Land Judges Court is not the crucial date, and the second, that the sale of an insolvent estate by the Land Judge, to which Section 48 does not apply, will not in the future, should Section 48 become applicable, disentitle that estate to the bonus.

Let us now return to the case of an insolvent estate bought in by a mortgagee. It is plain that Section 48 has no application whatever to the purchase by the mortgagee. There is no "estate" (as defined by Section 98) sold, and there is no advance under the Land Purchase Acts. It is only when the mortgagee has resold to the tenants and is in a position to obtain payment of the purchase money and to claim the bonus, *and not at any earlier date*, that the effect of Sub-section (4) has to be considered. This Sub-section as applied to such a case reads as follows: "This Section shall not apply to any estate so circumstanced that it would, independently of the Act of 1896, be sold without the consent of the owner as to price, in respect of which an absolute order for sale by the Land Judge was in force at the date of the passing of this Act."

It is submitted that the estate in respect of which the bonus is claimed is not an "estate so circumstanced that it would . . . be sold without the consent of the owner as to price." It might further be contended that the "estate," in respect of which the bonus is claimed, is not the "estate" which

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was subject to the absolute order, but there is a difficulty connected with this view of the matter arising from the definition of "estate" in Section 98. That Section defines an estate as meaning "any *lands* which the Estates Commissioners may declare fit to be regarded as a separate estate." The lands which are being sold under the Estates Commissioners are of course the same lands as were subject to the absolute order. This difficulty might possibly be met by the answer, that the context requires that "estate" in Sub-section (4) should be construed as meaning the interest of the owner in the lands and not the lands themselves.

The two foregoing schemes, especially the first, appear to the writer to have a reasonable chance of success, but it is needless to say that no confident opinion can be given upon questions of this character.

Where undivided share of estate insolvent.

In *Minhear's Estate*, 38 I. L. T. R. 215, MEREDITH, J., decided that where two undivided thirds of an estate for sale in the Land Judges Court were insolvent and the other undivided third was solvent, the bonus was payable in respect of the entire purchase money advanced under the Land Purchase Acts.

Bonus payable on portion of an estate.

In *Dominick J. B. Burke's Estate* (38 I. L. T. R. 258) portion of the lands comprised in the absolute order in a Land Judge's matter were sold to the Congested Districts Board, and by them declared to be an "estate." The lands were solvent at the time of the sale. MEREDITH, J., on the application of the solicitors having carriage, made an order declaring that the bonus was payable, and directing same to be paid to the credit of the Land Judge's matter.

When Treasury to be served.

In the same case he decided that notice of such applications should not, in the first instance, be served on the Treasury; but that in any case when he thought the Treasury should get notice he would adjourn the case to enable them to be served.

(*k*) **Mortgagee in possession.**—Section 42 of the Act of 1896 provides that "a mortgagee in possession with power of sale shall for all the purposes of the Land Purchase Acts be deemed to be a landlord."

Fees and Stamps.

Registration fees.

49. No fee shall be payable in the Local Registration of Title Office on the registration of the ownership of any land purchased by the Land Commission or the Congested Districts Board, or for any land certificate issued to the Commission or Board, or any purchaser from them.

Stamp duty.

50. No stamp duty shall be payable on any order or instrument made or issued under the Land Purchase Acts, or Part Two of this Act, whereby any land in respect of which an advance is made under those enactments is vested in any person, or is conveyed, or agreed to be conveyed, to any person.

Trustees.

Enlargement of powers of trustees as to investment of purchase money.

51.—(1) Where any land purchased by means of an advance under the Land Purchase Acts is settled land (*a*) within the meaning of the Settled Land Acts, 1882 to 1890, the trustees of the settlement

may, notwithstanding anything contained in the settlement, (*b*) on the request of the tenant for life, and without the consent of any other person, invest the purchase money or any part thereof not only in any investment in which trustees are by any Act authorised to invest trust funds, (*c*) but also in—

(*a*) Bonds, debentures, or mortgages secured upon rates or taxes levied under the authority of any Act of Parliament or Provisional Order by any municipal corporation or other local authority in the United Kingdom which shall be authorised to borrow on such security;

(*b*) Ground rents arising out of hereditaments in the United Kingdom and not exceeding in amount one-fourth part of the annual value at a rack rent of the premises out of which such ground rents issue;

(*c*) Debentures or mortgages of railway companies in the United Kingdom incorporated by Act of Parliament;

(*d*) Stocks or shares of any tramway or light railway, dividends upon which are guaranteed under the Tramways (Ireland) Acts, 1860 to 1900;

(*e*) Bonds, debentures, or mortgages secured upon any investments in which trustees are authorised by this or any other Act to invest trust funds;

(*f*) Debentures or fully-paid shares or stocks of any railway which for the ten years immediately preceding the date of investment has paid a dividend on its ordinary shares:

Provided that the sufficiency of any such investments as are hereinbefore in this Section recited to realise the sum invested therein upon the death of the tenant for life or the termination of the trust shall be secured to the satisfaction of the public trustee under this Act; and also in—

(*g*) Any investment authorised by the rule-making authority under Section sixty-one of the Supreme Court of Judicature (Ireland) Act, 1877, as amended by any enactment. 40 & 41 Vict. c. 57.

(2) That authority shall cause to be published from time to time in the Dublin Gazette a list of such investments as may for the time being be authorised by them for the investment of purchase money under this Section. (*d*)

(3) A trustee shall not incur any liability by reason of any investment made in pursuance of the powers conferred by this Section.

(4) In the case of all proceedings in relation to any lands sold under the Land Purchase Acts, or any charges thereon, or any moneys realised thereby, if it appears to the court that a trustee is or may be personally liable for any breach of trust, whether the transac-

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tion alleged to be a breach of trust occurred before or after the passing of this Act, but has acted honestly and reasonably, and ought fairly to be excused for the breach of trust, and for omitting to obtain the directions of the court in the matter in which he committed such breach, then the court may relieve the trustee, either wholly or partly, from personal liability for the same. (*e*)

(*a*) **Settled Land** is defined by Section 2 (3) of the Settled Land Act, 1882, as follows: "Land, and any estate or interest therein, which is the subject of a settlement, is for the purposes of this Act settled land, and is, in relation to the settlement, referred to in this Act as the settled land." Section 2 (4) provides that "the determination of the question whether land is settled land, for the purposes of this Act, or not, is governed by the state of facts, and the limitations of the settlement, at the time of the settlement taking effect." Section 2 (10) (i.) provides that "Land includes incorporeal hereditaments, also an undivided share in land." For definition of "settlement," see Section 2 (1) of the Settled Land Act, 1882, Appendix B, *post* p. 188.

Section does not apply to redemption money of superior interests.

It would seem as if the powers of investment given by the Section now being noted only apply to the purchase money of the land itself, and not to the redemption price of superior interests.

Investment in forbidden securities.

(*b*) **Notwithstanding anything contained in the settlement.**—These words might mean either of two things:—

First; that notwithstanding anything contained in the settlement, *relative to the giving of consents*, the trustees may, on the request of the tenant for life, and without the consent of any other person, invest, &c.; or,

Second; that notwithstanding anything contained in the settlement, *forbidding investments in certain securities, or relative to the giving of consents*, the trustees may, on the request of the tenant for life, and without the consent of any other person, invest, &c.

It is conceived that the second suggested meaning is the true meaning of the Section, and for this reason:—

The Trustee Act, 1893, contains a list of certain gilt-edged securities in which trustees may invest, unless expressly forbidden by the settlement. The Act of 1903 adds to this list other securities, which are not, comparatively speaking, of such a gilt-edged character, and it does not qualify the right of investment by any reference to a prohibition in the settlement. Therefore, even if the words "notwithstanding anything contained in the settlement" did not occur, trustees would apparently be entitled to invest in such securities, even though prohibited by the settlement. This being so, if the first of the two constructions suggested above were adopted, there would be this anomalous result: that although trustees who were prohibited by the settlement could not invest in the high-class securities mentioned in the Trustee Act, 1893, they could nevertheless invest in the less high-class securities specified in the Act of 1903. For this reason it is thought that all trustee securities are eligible for the investment of purchase money, notwithstanding any prohibition contained in the settlement.

(*c*) **By any Act authorised to invest trust funds.**—In order to ascertain what statutory powers of investment trustees have, it is necessary to refer to the following statutes, viz.—

The Purchase of Land (Ireland) Act, 1891.

The Settled Land Act, 1882.

The Trustee Act, 1893; and,
The Colonial Stock Act, 1900.
Section 19 of the Act of 1891 is as follows:—

Act of 1891.

"(1) Where the land comprised in a holding sold to a tenant is settled land within the meaning of the Settled Land Acts, 1882 to 1890, and the purchase money for such holding is received by the trustees of the settlement, those trustees, according to such direction and subject to such consent (if any) as is required by the Settled Land Acts, 1882 to 1890, may in their discretion invest the money not only on any security authorised by the Settled Land Acts, 1882 to 1890, but also in any other securities the investment in which is consented to by the person who, next after the then tenant for life and his or her wife or husband, is entitled to the money for his life or for any greater interest, and, if such person is under disability, the consent may be given in manner provided by Section 73 of the Landed Estates Court Act.

"(2) Where the persons so entitled are trustees they may give the said consent without incurring any liability, and may give it before the agreement for sale is made, and where the persons so entitled are entitled as tenants in common, a majority of the persons representing more than half the value of the whole of the property of such tenants in common may give the said consent.

"(3) In the case of settled land, if there are no trustees of the settlement, trustees may be appointed under the Settled Land Acts, 1882 to 1890, before any such agreement for sale is made, and the trustees of the settlement may, before any such agreement for sale is made, consent to the securities in which money arising from any sale is to be invested.

"(4) This Section shall not authorise an investment in any security specifically forbidden by the settlement, unless such investment be authorised by the Settled Land Acts, 1882 to 1890, but shall have effect notwithstanding any general prohibition of investing in securities not mentioned in the settlement."

There are two remarks to be made upon this Section.

Meaning of "securities."

1. The word used in the Section is "securities," and this word has been held to mean "something which secures money, and not something which may be bought with money" (*per* PORTER, M. R.), *In re Kavanagh*, 27 L. R. Ir. 495 at p. 498. See note in Cherry's "Irish Land Acts," 3rd edit. p. 474, in which it is pointed out that the use of the word "security" will probably be held to limit considerably the power of investment conferred by the Section. The investments authorised by the Settled Land Acts are set out in Section 21 of the Settled Land Act, 1882 (see Appendix B, *post* p. 190), but comparatively few of these appear to fall within the definition of "securities" given above.

Investments under S. L. Acts.

Consents required by Act, 1891.

2. Investments made under the Section (except upon securities authorised by the Settled Land Acts) require the consent not only of the trustees and of the tenant for life, but also of some other person entitled in remainder for his life or for any greater interest.

Trustee Act, 1893.

The provisions of the Trustee Act, 1893, as to investments by trustees are very important. This question is dealt with by the first nine Sections of that Act, which are as follows:—

Authorised investments.

"1. A trustee may, unless expressly forbidden by the instrument (if any) creating the trust, invest any trust funds in his hands, whether at the time in a state of investment or not, in manner following, that is to say:

"(*a*) In any of the parliamentary stocks or public funds or Government securities of the United Kingdom:

"(*b*) On real or heritable securities in Great Britain or Ireland.

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"(*c*) In the stock of the Bank of England or the Bank of Ireland:

"(*d*) In India Three and a half per cent. stock and India Three per cent. stock, or in any other capital stock which may at any time hereafter be issued by the Secretary of State in Council of India under the authority of Act of Parliament, and charged on the revenues of India:

"(*e*) In any securities the interest of which is for the time being guaranteed by Parliament:

"(*f*) In consolidated stock created by the Metropolitan Board of Works, or by the London County Council, or in debenture stock created by the Receiver for the Metropolitan Police District:

"(*g*) In the debenture or rent-charge, or guaranteed or preference stock of any railway company in Great Britain or Ireland incorporated by special Act of Parliament, and having during each of the ten years last past before the date of investment paid a dividend at the rate of not less than three per cent. per annum on its ordinary stock: *

"(*h*) In the stock of any railway or canal company in Great Britain or Ireland whose undertaking is leased in perpetuity or for a term of not less than two hundred years, at a fixed rental to any such railway company as is mentioned in Sub-section (*g*), either alone or jointly with any other railway company:

"(*i*) In the debenture stock of any railway company in India the interest on which is paid or guaranteed by the Secretary of State in Council of India: *

"(*j*) In the 'B' annuities of the Eastern Bengal, the East Indian, and the Scinde Punjaub and Delhi Railways, and any like annuities which may at any time hereafter be created on the purchase of any other railway by the Secretary of State in Council of India, and charged on the revenues of India, and which may be authorised by Act of Parliament to be accepted by trustees in lieu of any stock held by them in the purchased railway; also in deferred annuities comprised in the register of holders of annuity Class D. and annuities comprised in the register of annuitants Class C. of the East Indian Railway Company:

"(*k*) In the stock of any railway company in India upon which a fixed or minimum dividend in sterling is paid or guaranteed by the Secretary of State in Council of India, or upon the capital of which the interest is so guaranteed: *

"(*l*) In the debenture or guaranteed or preference stock of any company in Great Britain or Ireland, established for the supply of water for profit, and incorporated by special Act of Parliament or by Royal Charter, and having during each of the ten years last past before the date of investment paid a dividend of not less than five pounds per centum on its ordinary stock: *

"(*m*) In nominal or inscribed stock issued, or to be issued, by the corporation of any municipal borough having, according to the returns of the last census prior to the date of investment, a population exceeding fifty thousand, or by any county council, under the authority of any Act of Parliament or Provisional Order: *

"(*n*) In nominal or inscribed stock issued or to be issued by any commissioners incorporated by Act of Parliament for the purpose of supplying water, and having a compulsory power of levying rates over an area having, according to the returns of the last census prior to the date of investment, a population exceeding fifty thousand, provided that during each of the ten years last past before the date of investment the rates levied by such

* See Section 2 (2) Trustee Act, 1893, *post* p. 107, as to restriction on these investments.

commissioners shall not have exceeded eighty per centum of the amount authorised by law to be levied:

"(*o*) In any of the stocks, funds, or securities for the time being authorised for the investment of cash under the control or subject to the order of the High Court,* and may also from time to time vary any such investment.

"2.—(1) A trustee may under the powers of this Act invest in any of the securities mentioned or referred to in Section 1 of this Act, notwithstanding that the same may be redeemable, and that the price exceeds the redemption value.

"(2) Provided that a trustee may not under the powers of this Act purchase at a price exceeding its redemption value any stock mentioned or referred to in Sub-sections (*g*), (*i*), (*k*), (*l*), and (*m*) of Section 1, which is liable to be redeemed within fifteen years of the date of purchase at par or at some other fixed rate, or purchase any such stock as is mentioned or referred to in the Sub-sections aforesaid, which is liable to be redeemed at par or at some other fixed rate, at a price exceeding fifteen per centum above par or such other fixed rate.

"(3) A trustee may retain until redemption any redeemable stock, fund, or security which may have been purchased in accordance with the powers of this Act.

"3. Every power conferred by the preceding Sections shall be exercised according to the discretion of the trustee, but subject to any consent required by the instrument, if any, creating the trust with respect to the investment of the trust funds.†

"4. The preceding Sections shall apply as well to trusts created before as to trusts created after the passing of this Act, and the powers thereby conferred shall be in addition to the powers conferred by the instrument, if any, creating the trust.

Mortgage of leaseholds.

"5.—(1) A trustee having power to invest in real securities, unless expressly forbidden by the instrument creating the trust, may invest and shall be deemed to have always had power to invest—

"(*a*) on mortgage of property held for an unexpired term of not less than two hundred years, and not subject to a reservation of rent greater than a shilling a year, or to any right of redemption or to any condition for re-entry, except for non-payment of rent; and

"(*b*) on any charge, or upon mortgage of any charge, made under the Improvement of Land Act, 1864.

"(2) A trustee having power to invest in the mortgages or bonds of any railway company or of any other description of company may, unless the contrary is expressed in the instrument authorising the investment, invest in the debenture stock of a railway company or such other company as aforesaid.

"(3) A trustee having power to invest money in the debentures or debenture stock of any railway or other company may, unless the contrary is expressed in the instrument authorising the investment, invest in any nominal debentures or nominal debenture stock issued under the Local Loans Act, 1875.

"(4) A trustee having power to invest money in securities in the Isle of Man, or in securities of the government of a colony, may, unless the contrary is expressed in the instrument authorising the investment, invest in any securities of the Government of the Isle of Man, under the Isle of Man Loans Act, 1880.

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* See *post* p. 109. † See note (*b*), *ante* p. 104.

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"(5) A trustee having a general power to invest trust moneys in or upon the security of shares, stock, mortgages, bonds, or debentures of companies incorporated by or acting under the authority of an Act of Parliament, may invest in, or upon the security of, mortgage debentures duly issued under and in accordance with the provisions of the Mortgage Debenture Act, 1865.

Mortgage or purchase of land.

"6. A trustee having power to invest in the purchase of land or on mortgage of land may invest in the purchase, or on mortgage of any land, notwithstanding the same is charged with a rent under the powers of the Public Money Drainage Acts 1846 to 1856, or the Landed Property Improvement (Ireland) Act, 1847, or by an absolute order made under the Improvement of Land Act, 1864, unless the terms of the trust expressly provide that the land to be purchased or taken in mortgage shall not be subject to any such prior charge.

Certificates to bearer.

"7.—(1) A trustee, unless authorised by the terms of his trust, shall not apply for or hold any certificate to bearer issued under the authority of any of the following Acts, that is to say:

"(*a*) The India Stock Certificate Act, 1863;

"(*b*) The National Debt Act, 1870;

"(*c*) The Local Loans Act, 1875;

"(*d*) The Colonial Stock Act, 1877.

"(2) Nothing in this Section shall impose on the Bank of England or of Ireland, or on any person authorised to issue any such certificates, any obligation to inquire whether a person applying for such a certificate is or is not a trustee, or subject them to any liability in the event of their granting any such certificate to a trustee, nor invalidate any such certificate if granted.

Valuation of mortgaged premises.

"8.—(1) A trustee lending money on the security of any property on which he can lawfully lend shall not be chargeable with breach of trust by reason only of the proportion borne by the amount of the loan to the value of the property at the time when the loan was made, provided that it appears to the Court that in making the loan the trustee was acting upon a report as to the value of the property made by a person whom he reasonably believed to be an able practical surveyor or valuer instructed and employed independently of any owner of the property, whether such surveyor or valuer carried on business in the locality where the property is situate or elsewhere, and that the amount of the loan does not exceed two equal third parts of the value of the property as stated in the report, and that the loan was made under the advice of the surveyor or valuer expressed in the report.

Investigation of lessor's title on mortgage of leaseholds.

"(2) A trustee lending money on the security of any leasehold property shall not be chargeable with breach of trust only upon the ground that in making such loan he dispensed either wholly or partly with the production or investigation of the lessor's title.

Title which may be accepted by mortgagee.

"(3) A trustee shall not be chargeable with breach of trust only upon the ground that in effecting the purchase of or in lending money upon the security of any property he has accepted a shorter title than the title which a purchaser is, in the absence of a special contract, entitled to require, if in the opinion of the court the title accepted be such as a person acting with prudence and caution would have accepted.

"(4) This Section applies to transfers of existing securities as well as to new securities, and to investments made as well before as after the com-

mencement of this Act, except where an action or other proceeding was pending with reference thereto on the twenty-fourth day of December one thousand eight hundred and eighty-eight.

Measure of trustee's liability.

"9.—(1) Where a trustee improperly advances trust money on a mortgage security which would at the time of the investment be a proper investment in all respects for a smaller sum than is actually advanced thereon the security shall be deemed an authorised investment for the smaller sum, and the trustee shall only be liable to make good the sum advanced in excess thereof with interest.

"(2) This Section applies to investments made as well before as after the commencement of this Act except where an action or other proceeding was pending with reference thereto on the twenty-fourth day of December one thousand eight hundred and eighty-eight."

Where investment forbidden by settlement.

Under the provisions of the Trustee Act, 1893, the investments thereby authorised cannot be made where they are forbidden by the settlement. As explained above (see note (*b*)) it is conceived that Section 51 of the Act of 1903 authorises investments in all trustee securities notwithstanding any prohibition contained in the settlement.

Investments under Rules of Court.

It is provided by Order LXII., Rule 71 of the Rules of the Supreme Court (Ireland), 1905, that "Cash under the control of, or subject to the order of the Court, may, by order of the Court, or a Judge, be invested in the following stocks, funds, or securities, namely :—

"Two and a half per cent. consolidated stock :

"Two pounds fifteen shillings per cent. annuities :

"Two pounds ten shillings per cent. annuities :

"Local Loans stock under the National Debt and Local Loans Act, 1887 :

"Guaranteed Land Stock :

"Guaranteed Two and Three-quarters per cent. stock, 1903 :

"Any other Stocks guaranteed by the Government of the United Kingdom :

"Bank of England stock :

"Bank of Ireland stock :

"Deposit receipt in the Bank of Ireland :

"Indian three and a half per cent. stock :

"India three per cent. stock :

"Indian guaranteed railway stocks or shares, provided in each case that such stocks or shares shall not be liable to be redeemed within a period of fifteen years from the date of investment :

"Inscribed stock of Colonial Governments guaranteed by the Imperial Government :

"Mortgage of freehold and copyhold estates respectively in Ireland :

"Debenture preference guaranteed or rent-charge stocks of railways in Great Britain or Ireland, having for ten years next before the date of investment paid a dividend on ordinary stock or shares.

"Debenture preference guaranteed or rent-charge stocks of railways in Great Britain or Ireland, guaranteed by railway companies owning railways in Great Britain or Ireland which have for ten years next before the date of investment paid a dividend on ordinary stock or shares.

"(NOTE.—The stocks, funds, and securities hereinbefore set out are further authorised for the investment of purchase money under Section 51 of the Irish Land Act, 1903, and a list of the same shall be the list to be

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published in the Dublin Gazette as the list of such investments as are for the time being and until further order authorised by the Rule-making Authority of the Supreme Court for the investment of purchase money under the said Section.)"

The Colonial Stock Act, 1900.

The second Section of the Colonial Stock Act, 1900 (63 & 64 Vict. c. 62), is as follows:—

"The securities in which a trustee may invest under the powers of the Trustee Act, 1893, shall include any Colonial Stock which is registered in the United Kingdom in accordance with the provisions of the Colonial Stock Acts, 1877 and 1892, as amended by this Act, and with respect to which there have been observed such conditions (if any) as the Treasury may, by order notified in the London Gazette, prescribe.

"The restrictions mentioned in Section 2, Sub-section (2) of the Trustee Act, 1893, with respect to the stocks therein referred to, shall apply to Colonial Stock. The Treasury shall keep a list of any Colonial Stocks in respect of which the provisions of this Act are for the time being complied with, and shall publish the list in the London and Edinburgh Gazettes, and in such other manner as may give the public full information on the subject."

Treasury Conditions.

The Treasury issued an order in pursuance of the foregoing Section on the 6th of December 1900, by which the following conditions were prescribed.

1. The Colony shall provide by legislation for the payment out of the revenues of the Colony of any sums which may become payable to stockholders under any judgment, decree, rule or order of a Court in the United Kingdom.

2. The Colony shall satisfy the Treasury that adequate funds (as and when required) will be made available in the United Kingdom to meet any such judgment, decree, rule, or order.

3. The Colonial Government shall place on record a formal expression of their opinion that any Colonial Legislation which appears to the Imperial Government to alter any of the provisions affecting the stock to the injury of the stockholder, or to involve a departure from the original contract in regard to the stock would properly be disallowed.

List of Authorised Colonial Stocks.

The Treasury have from time to time published in the London Gazette lists of the Colonial Stocks in respect of which the provisions of the Colonial Stock Act, 1900, have been complied with. A list of all such stocks, compiled from the various issues of the London Gazette, will be found in Appendix D, *post* p. 242.

Section 42 of the Act of 1903 (*ante* p. 93) provides that all persons shall have the like power of investing in the Stock raised under that Act as they have in Consolidated Stock.*

Investments prescribed by Rule-making Authority.

It is provided by Order LXII., Rule 71 of the Rules of the Supreme Court (Ireland), 1905, that the stocks, funds, and securities therein set out are further authorised for the investment of purchase money under Section 51 of the Irish Land Act, 1903, and that a list of the same shall be the list to be published in the Dublin Gazette as the list of such investments as are for the time and until further order authorised by the Rule-making Authority of the Supreme Court for the investment of purchase money under the said Section.—The full text of Order LXII., Rule 71, will be found at page 109,

* See Addenda.

ante. A list of similar securities to those mentioned in Rule 71 was accordingly published in the Dublin Gazette of 27th Oct. 1905.

Table of authorised securities.

The reader will find in Appendix D, *post* p. 234, a table of securities authorised for investment of purchase money.

Relief of trustee from breach of trust.

(*e*) This Sub-section is very similar to Section 3 of the Judicial Trustee Act, 1896 (59 & 60 Vict. c. 35), an Act which does not apply to Ireland. It has been decided that under the Judicial Trustee Act the *onus* of proving honesty and reasonableness is cast upon the trustee, and that no general rule as to what constitutes honesty and reasonableness can be laid down, each case depending upon its own circumstances. The trustee must have acted not only honestly, but reasonably; honest folly will not be excused. See Underhill on Trusts, 5th edit. pp. 359–361.

As to the practice under this Sub-section, see Order XII. of Rules of 4th December 1903, *post* p. 532.

Public trustee.

52.—(1) For the purpose of the Land Purchase Acts there shall be a public trustee.

(2) The public trustee shall be a corporation under that name, with perpetual succession and an official seal, and may sue and be sued under that name.

(3) The Lord Lieutenant shall appoint a fit person to the office of public trustee to hold that office during pleasure.

(4) The public trustee shall, out of money provided by Parliament, be paid such salary as the Treasury may sanction.

(5) The public trustee may employ such officers and persons as, subject to the sanction of the Treasury, he may find necessary for the purposes of this Act, and those officers and persons shall be remunerated at such rates and in such manner as the Treasury may sanction, and the expenses of and incidental to the office of public trustee shall be paid as part of the expenses of the Land Commission.

(6) No fees shall be payable to the public trustee for any services rendered by him under this Act.

(7) The public trustee shall not incur any liability by reason of any act or thing done by him in good faith in pursuance of the provisions of this Act.

(8) The public trustee may hold property jointly with any persons or corporation aggregate or sole, and under that name may be entered in the books of any company or person as holder, either alone or jointly with any person, of stock, shares, or securities entered in such books.

(9) The order of the public trustee given under his seal, shall be a necessary and sufficient authority to any such company or person for

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the transfer of any such stock, shares, and securities, so far as respects the interest of the public trustee.

(10) Where any settled land (*a*) has been purchased by means of an advance under the Land Purchase Acts, and there is no trustee of the settlement, the public trustee may be appointed by the Land Commission to be trustee of the settlement.

(11) Where the trustees of any such settlement refuse or neglect to invest the purchase money in any securities authorised in pursuance of the last preceding Section, the tenant for life may apply to the Land Commission to substitute the public trustee for those trustees, and the Land Commission may by order make such substitution accordingly.

(12) The trustees of any such settlement may apply to the Land Commission to be discharged from their trust, and that the public trustee be appointed in their place, and the Land Commission may, if they think fit, make an order accordingly.

(13) Where the public trustee is appointed trustee of any settlement under the provisions of this Section, the Land Commission may make such further or other orders as may be necessary for the purpose of vesting the trust funds in him, or otherwise as the circumstances of the case may require.

(14) The powers conferred on the Land Commission by the foregoing provisions of this Section may be exercised by the Land Judge in any case where the purchase money of land sold under the Land Purchase Acts is distributable or has been distributed by him, and those provisions shall apply accordingly with the substitution of the Land Judge for the Land Commission.

(15) Rules may be made by the Land Judge and the Land Commission with the approval of the Lord Lieutenant for the purpose of carrying this Section into effect, and for regulating the exercise of the powers and duties of the public trustee, and in particular may provide that the trustee shall, on the request of any person proposing to sell an estate, give an estimate of the probable financial effect of such sale. (*b*)

General power of L. C. to appoint trustees.

This Section only deals with the appointment of the public trustee to be trustee of a settlement, but the Land Commission have also power, apart from the Act of 1903, to appoint trustees of settlements. This power depends upon several statutes:—

Act 1885, Section 10.

Section 10 of the Act of 1885 provides that: "In every case in which a holding is sold by the Land Commission to a tenant or other person; also in every case in which a holding is sold by a landlord to a tenant, and it is agreed that such sale shall be carried into effect by a vesting order of the Land Commission, the Land Commission shall have the jurisdiction and powers which are vested in the Land Judges of the Chancery division of

the High Court by the following Sections of the Landed Estates Court Act, and those Sections shall be incorporated with this Act, as if the Land Commission were therein referred to, and as if the purposes of those Sections included the purposes of this Act, that is to say:—

"Section sixty-six, relating to the appointment of trustees."

L. E. Court Act.

Section 66 of the Landed Estates Court Act reads as follows:—

"Whenever in the course of proceedings in any petition matter pending before the Court it shall appear expedient to appoint, change, or remove trustees, it shall and may be lawful for the Judge to make such orders, and give such directions in reference to such appointment, change, or removal, and in reference to the vesting property in new trustees, as the Lord High Chancellor is empowered to make under the authority vested in him for such purposes by the Trustee Act, 1850, and also by another Act passed in the session of Parliament holden in the fifteenth and sixteenth years of the reign of her Majesty, intituled 'An Act to extend the Provisions of Trustee Act, 1850,' and by any other Act which may be passed in relation to trustees."

Act 1885, Sect. 13.

Section 13 of the Act of 1885 provides that, "When the tenant for life of any settled land, or a person having the power of a tenant for life, is desirous to sell the land, or any part, to the Land Commission, and there are no trustees of the settlement for the purposes of the Settled Land Act, 1882, or it is expedient that new trustees should be appointed, it shall be lawful for the Land Commission to appoint fit persons to be trustees of the Settlement for the purposes of that Act."

Act 1887, Sect. 23.

Section 23 of the Act of 1887 provides that "the power of appointing new trustees given by the thirteenth Section of the Purchase of Land (Ireland) Act, 1885, shall extend to all cases in which it may be necessary to appoint new trustees for the purposes of any sale under the Land Law (Ireland) Acts."

Appointment of trustees of superior interests.

It was held by BEWLEY, J., in *Dames Longworth's Estate* (26 I. L. T. and S. J. 521) that the power of appointing trustees conferred by Section 23 of the Act of 1887 only applied to settlements of *lands* which were being sold under the Purchase Acts, and not to settlements of *superior interests* arising out of such lands. MEREDITH, J., has however decided that since the passing of the Act of 1896 the Land Commission have power to appoint trustees for the purposes of the Settled Land Acts of settlements of superior interests: *Garde's Estate* [1904], 1 I. R. 237; but in that case he limited the appointment to the redemption money of the superior interest and the trusts affecting the same.

Act 1891, Sect. 19.

Section 19 (3) of the Act of 1891 provides that trustees may be appointed before any agreement for sale is made. (The text of this Section will be found in the notes to Section 51, *ante* p. 105.)*

Procedure.

The procedure relative to the appointment of trustees is regulated by Order XXV. and Order XXX., Rule 5 of the Rules of March 1897, *post* pp. 397 and 401.

As to the appointment of new trustees by deed, see notes to Section 17, *ante* p. 63.

As to the appointment of new trustees by the Court of Chancery, see notes to Section 17, *ante* p. 63.

As to the powers of the Land Judge to appoint trustees, see Madden's "Practice before the Land Judge," 3rd edit., pp. 87, 117, 202, and 342.

(*a*) **Settled Land.**—Is defined by Section 2 (3) of the Settled Land Act, 1882, as follows: "Land, and any estate or interest therein, which is the subject of a settlement, is for the purposes of this Act settled land, and is, in relation to the settlement, referred to in this Act as the settled land."

* See Addenda.

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Sub-section (4) of the same Section provides that: "The determination of the question whether land is settled land, for purposes of this Act, or not, is governed by the state of facts, and the limitations of the settlement, at the time of the settlement taking effect. Sub-section (10) (i.) of the same Section enacts that: "Land includes incorporeal hereditaments, also an undivided share in land." For definition of "settlement," see Section 2 (1) of the Settled Land Act, 1882, Appendix B, *post* p. 188.

Section 52 of the Act of 1903 apparently only applies to the purchase money of land sold to tenants, and not to the redemption money of superior interests.

Public Trustee Rules.

(*b*) See Rules of 3rd December 1904, *post* p. 344.

Miscellaneous.

Limitation on advances in certain cases.

53. Notwithstanding anything in the Land Purchase Acts imposing a limit on advances (*a*) the following provisions shall have effect:—

(1) If the tenancy in a holding was created after the first day of January in the year nineteen hundred and one an advance in respect of the purchase of the holding shall not, together with the amount (if any) of any previous advance under the Land Purchase Acts then unrepaid by the purchaser, exceed five hundred pounds: Provided that, in the case of a holding situate in an administrative county, (*b*) or in a riding (*c*) of any such county, which does not comprise a congested districts county, (*d*) the said limitation may, subject to the other limitations in the Land Purchase Acts, (*a*) be exceeded where the Land Commission consider that a larger advance may be sanctioned to any purchaser without prejudice to the wants and circumstances of other persons residing in the neighbourhood: Provided also that this Section shall not apply to the case of a former tenant, or a person nominated by the Land Commission as his personal representative, purchasing his former holding, or part thereof, (*e*) or to the case of a tenancy created by the Congested Districts Board.

(2) No advance under the Land Purchase Acts shall be sanctioned by the Land Commission to any one purchaser of land held under a letting made by any Court, or Judge, (*f*) exceeding the sum of one thousand pounds, save where the land is resold to the vendor of an estate: Provided that the limit in this Sub-section may, where the Land Commission consider it expedient under the circumstances mentioned in the preceding Sub-section, be extended to two thousand pounds.

(3) Nothing in this Section shall affect any estate as to which a request by the Land Judge issued to the Land Commission under the said Section forty (*g*) prior to the passing of this Act.

(*a*) **Imposing a limit on advances.**—As to the limitations on advances, see note (*l*) to Section 1, *ante* p. 6. See also the remarks of MEREDITH, J., in *Spunner's Estate*, 38 I. L. T. R. 166.

(*b*) **Administrative county.**—Administrative counties are the districts for which the county councils are elected. These administrative counties which were constituted by the Local Government (Ireland) Act, 1898 (61 & 62 Vict. c. 37) (see Section 68), correspond to the old counties, subject to certain alterations in the boundaries made by the Local Government Board for Ireland.

(*c*) **Riding.**—Only two counties in Ireland are divided into ridings, viz. Cork and Tipperary. Cork has two ridings, but only one county council; Tipperary has two ridings and two county councils.

(*d*) **Congested districts county.**—This term is defined by Section 36 of the Act of 1891, which provides as follows:—

"Where at the commencement of this Act more than twenty per cent. of the population of a county, or in the case of the county of Cork of either riding thereof, live in electoral divisions of which the total rateable value, when divided by the number of the population, gives a sum of less than one pound ten shillings for each individual, those divisions shall for the purposes of this Act be separated from the county in which they are geographically situate, and form a separate county (in this Act referred to as a congested districts county)." . . . "Provided that if within one year from the passing of this Act it appears to the Congested Districts Board that it is expedient to include under the provisions of this Section any electoral division other than the divisions hereinbefore mentioned, or to exclude therefrom any electoral division, it shall be lawful for the Lord-Lieutenant, on the report of the Board, to include or exclude, as the case may be, such division."

The following administrative counties comprise "congested district counties":—

Clare	Leitrim
Donegal	Mayo
Galway	Roscommon
Kerry	Sligo.

The West Riding of Cork also comprises a "congested districts county."

Where the holding is situate in one of the above administrative counties or in the West Riding of Cork, the advance cannot under any circumstances exceed £500. Where it is not so situate, a larger advance may be sanctioned where the Land Commission consider that such larger advance may be made "without prejudice to the wants and circumstances of other persons residing in the neighbourhood." The object of the Section was explained by Lord Lansdowne when the Bill was in Committee before the Lords in the following words: "The opportunities of adding to and improving small and badly situated holdings were not frequent, and one of the most usual forms in which such an opportunity might present itself was when the selling landowner was in possession of a large quantity of untenanted and available land which could be turned to account for this purpose. It was apprehended that in some cases the owner of property of this description might be induced to let such unoccupied land to comparatively wealthy and prosperous tenants, who would hire it with the idea that they would eventually be able to buy it under the Act. . . . For those reasons the Government proposed to deny to newly-created holdings the same facilities that were offered to holdings which had been in existence for a long time."

Object of Section.

The words used in the Section now being noted as to the wants and

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Evicted tenants.

circumstances of persons in the neighbourhood are similar to the words in Section 2 (2), *ante* p. 9.

(*e*) The object of this proviso is to facilitate the re-instatement of evicted tenants or their representatives in their old holdings. It has already been pointed out (*ante* p. 11) that there is nothing to prevent tenancies being created with a view to purchase, but that the £500 limitation imposed by this Section is a serious check upon the creation of such tenancies. In the case of evicted tenants *purchasing their old holdings* the limitation does not apply, and such contracts may therefore be freely entered into with them.

Where it is desired to enable evicted tenants to purchase holdings *other than those from which they have been evicted* the provisions of Section 2 (1) (*d*), *ante* p. 8, may be relied upon; or, if the estate is not situate in an administrative county which contains a congested districts county, tenancies may be created on the chance of the Land Commission considering that more than £500 may be advanced without prejudice to the wants and circumstances of other persons in the neighbourhood. Of course, if an advance of less than £500 is required no difficulty will arise.

(*f*) Where a Court letting is made subsequently to the 1st of January 1901, it would appear as if the £500 limitation imposed by Sub-section (1) applies. See *Clarke's Estate*, 4 N. I. J. R. 1.

(*g*) **The said Section forty.**—There is no previous reference in the Section to any "Section forty," but the Section intended to be referred to is Section 40 of the Act of 1896. As the Section was originally drafted Section 40 of the Act of 1896 was mentioned in its earlier part, but when this earlier part was amended, the necessary consequential amendment was omitted to be made in Sub-section (3). Section 40 of the Act of 1896 is discussed in the notes to Section 7, *ante* p. 22.

Restrictions on subdivision and incumbrance of holding.

54.—(1) As between the Land Commission and the proprietor for the time being of any holding (*a*) for the purchase of which the Land Commission have after the commencement of this Act (*b*) made any advance under the Land Purchase Acts, the following conditions shall be imposed, that is to say:—

(*a*) The holding shall not be subdivided or let without the consent of the Land Commission, (*c*) and if the proprietor subdivides or lets the holding, or any part thereof, without such consent, the Land Commission may cause the holding to be sold: (*d*)

(*b*) Where the title of the holding is divested from the proprietor by bankruptcy, the Land Commission may cause the holding to be sold:

(*c*) Where on the decease of the proprietor the holding would, by reason of any devise, bequest, intestacy, (*e*) or otherwise, become subdivided or vested in more than one person, the Land Commission may require the holding to be sold within twelve months after they become aware (*f*) of the death of the proprietor to some one person, and, if default is made in so selling the holding, the Land Commission may cause the holding to be sold:

Provided that the Land Commission, instead of requiring or causing a holding to be sold, may, in the prescribed (*g*) manner and on the prescribed (*g*) request by any person interested, nominate some person interested in the holding to be the proprietor of the holding, and provide for the satisfaction of the claims of other persons interested, including any creditors of the deceased, by charging them upon the holding or otherwise.

(2) Not more than one person shall, without the consent of the Land Commission, be registered as the owner of the holding under Part IV. of the Local Registration of Title (Ireland) Act, 1891 (*h*). 54 & 55 Vict. c. 66.

(3) The proprietor of the holding shall not, without the consent of the Land Commission, mortgage or charge the holding, (*i*) or any part thereof, for any sum or sums exceeding in the aggregate ten times the amount of the purchase annuity payable in respect of the holding or part upon the making of the advance, and every instrument of mortgage or charge on a holding or part thereof by which the holding or part is charged with any larger sum shall be null and void as to the excess. Where part of a holding is mortgaged or charged, the Land Commission shall, for the purpose of this enactment, estimate the amount of the purchase annuity payable in respect of that part. The consent of the Land Commission under this enactment may, in the case of a charge created by a will, be given at any time whether before or after the death of the testator.

(4) Every instrument of mortgage or charge on the holding executed after the commencement of this Act other than a charge under any Public Works Act shall be registered under the Local Registration of Title (Ireland) Act, 1891, as a burden affecting that holding, (*j*) and if not so registered within three months from the date of execution by the mortgagor or chargeant, (*k*) or, in the case of a charge created by will or codicil, within six months from the death of the testator, (*l*) shall be null and void. 54 & 55 Vict. c. 66.

(5) Sub-sections two and three of Section thirty of the Act of 1881, (*m*) as amended by any enactment, shall apply to proceedings under this Section.

Sub-section (1) of this Section, down to the end of paragraph (*c*), corresponds very nearly to Sub-section (1) of Section 30 of the Act of 1881 (see Appendix B, *post* p. 186) in which the conditions imposed upon purchasers, prior to the Act of 1903, are to be found. There is, however, this difference—the Act of 1881 expressly states that the conditions are to attach so long only as the holding is subject to the annuity to the Land Commission; the Act of 1903 contains no provision upon this point.

Alienation not prohibited.

There appears to be nothing in the Act of 1903 or in any of the prior Acts (except as regards purchases made under the Act of 1870, and small

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holdings in congested districts counties under Section 38 (3) Act 1891) to prevent the alienation by a purchaser of his entire holding to one person.

(*a*) **Holding.**—For definition of "holding," see note (*g*) to Section 2, *ante* p. 11. *Quaere*, does the use of the word "holding" exclude from the operation of Section 54 demesne land re-purchased under Section 3, and parcels of land purchased by trustees under Section 4? It is to be observed that it was thought necessary to provide that parcels purchased under Section 2 are to be deemed to be "holdings" within the meaning of the Land Purchase Acts.

Sect. only applies to purchases after 1st Nov. 1903.

(*b*) **After the commencement of this Act,** *i.e.* 1st November 1903, see Section 102, *post* p. 163. It is conceived that all the Sub-sections of Section 54 are only applicable to holdings purchased by advances made after 1st November 1903. Observe the use of the words "the holding" in place of "a holding" throughout the Section.

Consent of L. C. how obtained.

(*c*) **Consent of the Land Commission.**—Applications to the Land Commission of an administrative nature (such as for consent of the Commission to subdivision of a holding under the Act of 1881, Section 30) must be made by letter to the secretary and not by motion. (*In the matter of W. Creagh Hickie*, 26 I. L. T. R. 145.) The same rule will no doubt apply to consents under the Act of 1903.

Under Section 38 (3) of the Act of 1896 the Land Commission may, where they authorise the Subdivision of a holding, apportion the purchase annuity, or if they think fit discharge any portion of the holding from the annuity. See also Section 67 of the Act of 1903, *post* p. 146. Section 56 (*post* p. 120) provides that the Commissioner of Valuation, so soon as he is aware of a sub-letting or subdivision, shall give information to the Land Commission; also that every collector of poor rate shall give like information to the Commissioner of Valuation.

(*d*) **May cause the holding to be sold.**—As to the provisions regulating sales, see note (*m*) to this Section, *post* p. 119.

Descent of purchased holdings on intestacy.

(*e*) **Intestacy.**—Section 84 of the Local Registration of Title Act, 1891, provides that where any freehold registered land sold under the provisions of the Land Purchase Acts is vested in any person, without right of survivorship to any other person, it shall on his death, notwithstanding any testamentary disposition, vest in his personal representatives.

Section 85 of the same Act provides that on the death of a person intestate, as to any such land, the beneficial interest therein shall be divisible among the same persons as if it were personal estate as to which he had died intestate.

Sections 84 and 85 apply only in cases of deaths after 1st January 1892. For full text of Sections 84 and 85, see Appendix B, *post* p. 209.

(*f*) **They become aware.**—Section 56 (3), *post* p. 121, provides that the district registrar of births and deaths shall give information to the Land Commission so soon as he is aware of the death of the proprietor of a holding.

(*g*) **Prescribed.**—See Order XI. of Rules of 4th December 1903, *post* p. 532.

(*h*) **Part IV. of the Local Registration of Title (Ireland) Act, 1891.**—This is the portion of the Act dealing with the "devolution of interest in Freehold Registered Land sold under Purchase Acts." For text of Part IV., see Appendix B, *post* p. 208.

Validity of judgment mortgages.

(*i*) **Mortgage or charge the holding.**—Section 44 of the Act of 1870 provided that no purchaser should without the consent of the Board of Works alienate, assign, or subdivide or sub-let his holding. It was decided in *Flood's Estate*, 7 L. R. Ir. 545, that, where a judgment mortgage was registered against a holding purchased under that Act, a valid charge was created and

that the judgment mortgagee was entitled to proceed to a sale without the consent of the Commissioners of Public Works. It is to be observed, however, that the Section of the Act of 1870 was not expressly pointed at mortgages, whilst the Section now being noted is.

(*j*) **As a burden affecting that holding.**—As to the registration of charges as burdens, see Browning's "Local Registration of Title in Ireland," pp. 130 and 136.

(*k*) **Chargeant.**—This word is used in the Section as denoting the person *creating the charge.* This is not, however, its meaning; it is, in fact, a synonymous term for "chargee," or a person *entitled to a charge* (see "Standard Dictionary," vol. i. col. 320, under heading "chargee." See also Murray's "New English Dictionary," vol. ii. p. 287). The Section will no doubt be construed so as to read "by the mortgagor or person creating the charge."

(*l*) **Within six months from the death of the testator.**—This provision is likely to be productive of much injustice. There are many cases in which it will be impossible to register charges created by will within six months from the death of the testator, *e.g.* where the testator dies abroad, where the will is lost, or where the will is disputed.

(*m*) **Sub-sections two and three of Section thirty of the Act of 1881.**—Sub-section 2 is as follows:— Sale of holdings by L. C.

"The Land Commission may cause any holding which under this Section they can cause to be sold, or any part of such holding, to be sold by public auction or private contract, and subject to any conditions of sale they may think expedient, and after such notice of the time, place, terms, and conditions of such sale, as they think just and expedient; and the Land Commission may convey such holding to the purchaser in like manner in all respects as if the holding had been vested in the Land Commission."

Sub-section 3, as amended by the second schedule to the Act of 1896, reads as follows:—

"The Land Commission shall apply the proceeds derived from such sale in payment, in the first instance, of all moneys due to them in respect of the holding, and in redemption of any annuity charged on the said holding, in favour of the Commission, or of so much thereof as remains unpaid, and of all expenses incurred by the Land Commission in relation to such sale or otherwise with respect to the holding."

Sale may be subject to annuity.

Section 15 of the Act of 1885 provides that, notwithstanding anything in Section 30 of the Act of 1881, the sale may be made subject to the future payment of the annuity, and in that case no part of the proceeds shall be applied in redemption of the annuity, but that save as aforesaid the proceeds shall be applied in manner provided by Section 30 of the Act of 1881.

Order to put purchaser in possession.

Section 16 of the Act of 1885 provides that where a holding is sold by the Land Commission, the High Court or the County Court may, on the application of the purchaser, issue an order to the Sheriff to put such purchaser in possession, and that such order shall be executed by the Sheriff in like manner as a writ of possession.

Sale for non-payment of instalments.

Section 18 of the Act of 1887 provides that where an instalment of an annuity is in arrear for forty days the Land Commission may exercise the powers of sale and other powers conferred upon mortgagees by Sections 19, 21, and 22 of the Conveyancing Act, 1881, so far as the same is applicable, and that the Land Commission shall apply the moneys arising upon any such sale in manner provided by Section 15 of the Act of 1885.

Sections 19, 21, and 22 of the Conveyancing Act, 1881, will be found in Appendix B, *post* pp. 181–183.

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Order to put L. C. in possession prior to sale.

Section 25 of the Act of 1891 provides that, where the Land Commission are entitled to sell a holding for non-payment of any sum due to them, they may apply to the High Court for an order to the Sheriff to put them in possession of the holding, and that such order shall be executed in the same way as a writ of possession.

Sections 37 and 38 of the Act of 1891 contain provisions as to the sale of small holdings in congested districts counties.

Section 38 of the Act of 1896 provides that:—

Holding may be sold in lots.

"(1) The Land Commission upon the sale of a holding under Section 30 of the Land Law (Ireland) Act, 1881, or under any power of sale, may sell the holding in lots. . . .

Apportionment of annuity.

"(3) Where a holding is subject to the future payment of an annuity, and the Land Commission sell it in lots . . . the Land Commission may apportion the annuity in such manner as they deem expedient, or may, if they think fit, make an order discharging any such portion of the holding as aforesaid from any future liability for such annuity, or any part thereof or any arrears thereof.

Application of purchase money.

"(4) Where the Land Commission sell a holding, the purchase money shall, subject to the provisions of Section thirty of the Land Law (Ireland) Act, 1881, be paid and distributed as if it were the purchase money of a holding sold by a landlord to a tenant."

Section 55 of the Act of 1903 (*infra*) appears to make it obligatory to sell subject to the annuity.

As to the power of the Land Commission to obtain possession of a holding which has been unsuccessfully put up for sale, see Section 65, *post* p. 145.

As to the extended powers of apportioning annuities now given to the Land Commission, see Section 67, *post* p. 146.

Effect of compulsory sale of holding.

55. Where a holding (*a*) is put up for sale by or at the instance or with the consent of the Land Commission, the holding shall be sold subject to the purchase annuity (*b*) (if any) and any charge under any Public Works Acts, (*c*) but discharged from all other claims or incumbrances (*d*) of all persons whomsoever who are interested in the holding, and all such claims shall as from the date of the sale cease as against the holding and attach to the purchase money in like manner as immediately before the date of the sale they attached to the holding.

(*a*) **Holding.**—See note (*a*) to Section 54, *ante* p. 118.

(*b*) **Subject to the purchase annuity.**—As the law stood prior to the Act of 1903, the sale might have been either subject to, or discharged from, the annuity. See note (*m*) to Section 54, *ante* p. 119.

(*c*) **Public Works Acts.**—For definition of, see Section 98, *post* p. 159.

(*d*) **Discharged from all other claims or incumbrances.**—Compare Section 14 (1) Act 1887 (Appendix B, *post* p. 203,) and Section 16 Act 1903, *ante* p. 50.

Maps and information to be furnished to Land Commission.

56.—(1) The Commissioner of Valuation and Boundary Surveyor shall—

(*a*) furnish the Land Commission with such maps as they may request to be furnished with; and

(*b*) so soon as he is aware of the subdivision or letting of a holding (*a*) in respect of which an advance under the Land Purchase Acts has been made, give information to the Land Commission in the prescribed manner of such letting or subdivision.

(2) When any collector of poor rate becomes aware of any subdivision or letting of any such holding he shall, as soon as may be, give information thereof to the Commissioner of Valuation and Boundary Surveyor.

(3) The district registrar of births and deaths shall, so soon as he is aware of the death of any person who was at the time of his death the proprietor of any such holding, (*b*) situate in whole or in part within his district, give information to the Land Commission in the prescribed manner of such death.

(4) Every district registrar and collector of poor rates who wilfully neglects to comply with the requirements of this Section shall be liable on summary conviction to a fine not exceeding two pounds.

(5) The Lord Lieutenant may make rules for carrying into effect the objects of this Section, and those rules while in force shall have effect as if enacted in this Act.

(*a*) See Section 54 (1) (*a*), *ante* p. 116.
(*b*) See Section 54 (1) (*c*), *ante* p. 116.

Liability for interest on purchase money in case of proceedings before Land Judge.

57. Section thirty-five of the Act of 1896 (*a*) shall apply in the case of sales to tenants under the Land Purchase Acts in proceedings before the Land Judge, with the following modifications:—

(1) The date at which interest on the purchase money shall begin to be payable shall be—

(*a*) Where the sales are being effected under Section forty of the Act of 1896, the date of the order of the Land Judge directing the offers of the sale of the holdings to be made to tenants;

(*b*) Where the sales are being effected under other provisions of the Land Purchase Acts, the date of the order of the Land Judge accepting the offer of the tenants:

(2) Such interest shall be calculated on so much of the purchase money as is being advanced by the Land Commission, and shall be paid to and be collected and recoverable by the Land Commission, and Sub-section two of Section thirty-five (*b*) of the Act of 1896 shall apply accordingly with the substitution of the date of the said order of the Land Judge for the date of the agreement in the said Sub-section mentioned, and with the modifications in this Section mentioned:

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(3) The portion of such interest not liable to be applied under Section twenty of the Act of 1887 (*c*) shall be paid to such person, or lodged to such account, as the Land Judge may direct:

(4) Where an offer of the Land Judge for the sale of a holding to the tenant thereof is accepted, not more than one year's arrears of rent shall be recoverable from that tenant:

(5) For the purposes of this Section the word "landlord" in Sub-section two of Section thirty-five of the Act of 1896 shall include a receiver appointed in any action or matter.

Two methods by which L. J. can sell to tenants.

There are two methods by which sales can be made by the Land Judge to tenants.

(1) Under Section 4 of the Act of 1885; and,

(2) Under Section 40 of the Act of 1896.

Where the sales are being effected under the Act of 1885, the procedure is as follows:—

Procedure under Act 1885.

A. The solicitor having carriage applies to the Land Judge for leave to negotiate with the tenants.

B. Leave having been obtained, the solicitor, or the Receiver (if any) gets the tenants to sign proposals in Form 34A, which is a modification of Form 34, in the Rules of March 1897, *post* p. 458.*

C. When the proposals are signed, they are lodged in the Land Commission along with two copies of the rental, one being an attested copy, a rental map mounted on linen, the Ordnance Survey report and the certificate of the tenement valuation. An inspection of the holdings then takes place, and provisional sanctions are issued by the Land Commission.

D. An application to accept the tenants' offers is then made to the Land Judge grounded upon an affidavit referring to the proposals signed by the tenants, and to the sanctions issued by the Land Commission. If the Land Judge accepts the offers, it has always been considered that his order has the effect of wiping out all arrears of rent due by the tenants at the date of the order. It is therefore necessary either to collect all rent due before making the application, or to arrange with the tenants to pay sums in cash on account of the arrears, in addition to the sums to be advanced by the Land Commission. In *Burchall* v. *Coyle* (37 I. L. T. R. 176), PALLES, C. B., decided that a vesting order extinguishes all arrears of rent or interest in lieu of rent due at its date, but the question as to the effect of the Land Judge's order accepting the tenants' proposals to purchase (the holdings having been purchased in the Land Judges' Court) does not seem to have been considered.

E. An attested copy of the order is lodged in the Land Commission along with an affidavit of occupancy and the Accountant General's privity for the lodgment of the purchase money.

F. The Land Commission then proceed to vest the holdings, and lodge the purchase money to the credit of the Land Judges' matter.

No interest formerly payable between acceptance of offers and vesting of holdings.

Prior to the Act of 1903, no rent, or interest on the purchase money, was payable by the tenants in respect of the period intervening between the

* Form 34 can also be used, but the procedure under it is more complicated, and may be regarded as out of date. In using Form 34A the words "Guaranteed Land Stock" should be struck out.

date of the order accepting the offers and the date of the vesting of the holdings. The effect of the Section now being noted is to make the tenants liable to interest during this period at the rate fixed by the Land Judge, usually 3¼ per cent. Application should be made to the Judge, when the offers come before him for acceptance, to fix the rate of interest and to direct the account to which it is to be lodged (under Sub-section 3). The interest when collected is lodged by the Land Commission to the credit of the Land Judges' matter. No privity in respect of it need be taken out by the solicitor having carriage.

Where the sales are being effected under Section 40 of the Act of 1896, the procedure is as follows (see Rules of 23rd January 1897, *post* p. 286) :—

Procedure under Section 40, Act 1896.

A. The case appears in the Land Judge's list, either automatically under the Rules of January 1897, or on the application of some interested party, whereupon the Judge makes an order for the issue of a request.

B. The request is prepared by the Solicitor having carriage, signed by the Judge, and lodged in the Land Commission along with two copies of the rental, one an attested copy having a sealed map attached. With the request are also lodged a copy of the last Receiver's account, a certificate of the tenement valuation and the Ordnance Survey Report.

C. The Land Commission having inspected the Estate prepare a report as to the price at, and conditions under which, the sale of the holdings to the tenants can properly be made.

D. If the Land Judge approves of the Report, he orders it to be lodged in the Registrar's Office, and the solicitor having carriage thereupon prepares and serves a notice fixing a day for the consideration of the Report before the Land Judge.

E. On the day named the Report comes before the Judge, who, after hearing all interested parties, fixes the price at, and the conditions under which, the holdings are to be offered to the tenants discharged from the arrears of rent then due by them. As the offers must be made "discharged from the arrears of rent," the Judge fixes a sum to be paid in cash by each tenant on account of the arrears due. (See *Harkness' Estate* [1897], 1 I. R. 426.) In arriving at the sum to be paid, the Judge is guided by the report of the Receiver; he sometimes also takes oral evidence from the tenants as to their ability to pay arrears without stripping their holdings.

F. A certified copy of the order made by the Land Judge is lodged in the Land Commission, and the Commission thereupon offer the holdings to the tenants in accordance with the terms of the Land Judge's order.

G. As soon as the offers are accepted, the Land Commission notify the solicitor having carriage, also the Registrar of the Land Judges' Court. The solicitor having carriage drafts an order directing the tenants' names to be entered in the sale book as purchasers, and lodges it with the Registrar along with evidence of payment of the sums directed to be brought in in cash by the tenants, and with the notification of acceptance of the offers received from the Land Commission. He also lodges the attested copy order directing the offers to be made to the tenants.

H. When the order is made up, the solicitor having carriage lodges an attested copy in the Land Commission along with a privity for lodgment of the purchase money, and (if the sales are being carried out by vesting orders) two sealed rental maps to be attached to the vesting orders. The Land Commission thereupon proceed to vest the holdings in the tenants, and lodge the purchase money to the credit of the Land Judges' matter.

Rent formerly payable till communication of offers.

Prior to the Act of 1903 rent was payable by the tenants up to the date of the communication of the offers to them by the Land Commission

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(*Blake's Estate*, 37 I. L. T. R. 37), but in future, under the Section now being noted, interest in lieu of rent will be paid from the date of the order directing the offers to be made. The rate of interest is usually 3¼ per cent.

Application should be made to the Judge on the consideration of the Report to fix the rate of interest, and to direct the account to which the same should be lodged (see Sub-section (3)). The interest, when collected by the Land Commission, is lodged by them to the credit of the Land Judges' matter. No privity in respect of it need be taken out by the solicitor having carriage. As to the distribution of the purchase money by the Land Judge, see Regulations of 18th September 1896, *post* p. 263.

(*a*) **Section thirty-five of the Act of 1896.**—The text of this Section will be found in Appendix B, *post* p. 217.

Collection of interest by L. C.

(*b*) **Sub-section two of Section thirty-five.**—This Sub-section when modified so as to apply to Land Judges' matters will read as follows:—

Interest on so much of the purchase money as is being advanced by the Land Commission, from the date of the Land Judge's order (directing the offers to be made, or accepting the offers, as the case may be) until the day from which the purchase annuity begins shall be payable half yearly on the first day of May and first day of November by the purchaser, and shall be paid to and collected and recoverable by the Land Commission, in like manner as if it were an instalment of the purchase annuity charged upon the holding, and when received by them shall, as respects the period subsequent to the date of the advance, be applied in payment of the interest due under Section 20 of the Act of 1887, and subject thereto shall be paid to such person, or lodged to such account, as the Land Judge may direct, and, if the sale shall fall through, shall be allowed by the landlord, or the Receiver, as the case may be, to the tenant as a payment on account of rent. As to a further modification made by the Act of 1903, see next note.

Interest between date of advance and first gale day.

(*c*) **Section twenty of the Act of 1887.**—This Section provides that purchase annuities shall be payable half-yearly on 1st May and 1st November, and that the first half-yearly payment of any such annuity shall, where the advance is not made on one of the said gale days, be paid on the second of such gale days after the date of the advance, and that together with such half-yearly payment there shall be paid an additional sum for interest on the advance at 3⅛ per cent. from the date of the advance until the first gale day next after that date. (For full text of Section, see Appendix B, *post* p. 206.) The rate of interest was by Section 16 of the Act of 1891 reduced from 3⅛ per cent. to 3 per cent.

Modification of above by Act 1903.

The effect of the two foregoing Sections appears to be modified by Section 45 of the Act of 1903, which provides that advances in pursuance of agreements entered into after the passing of the Act are to be repaid in the manner and at the times prescribed by the Treasury. The Treasury have issued regulations which provide—

(1) That the gale days are to be 1st June and 1st December.

(2) That when the advance is not made upon a gale day, interest at 2¾ per cent. from the date of the advance is to be paid upon the first gale day. (See note (*a*) to Section 45, *ante* p. 95.)

Amendment of 59 & 60 Vict. c. 47. s. 40 with respect to report of Land Commission and certain court lettings.

58.—(1) The report mentioned in paragraph (*a*) of Sub-section one of Section forty of the Act of 1896 shall be made by one commissioner instead of two commissioners, (*a*) and, where the Land Judge refers such report to the Land Commission for reconsideration, the same shall be reconsidered by three commissioners, who shall have power to confirm or vary the same or to make a new report, but, save

as provided by this Section, the terms and conditions contained in the report shall not be varied without the consent of the Land Judge.

(2) Paragraph (*b*) of Sub-section one of the said Section forty shall not, unless the Land Judge so directs, apply in the case of a person in occupation under a letting, made by the Land Judge or Receiver Judge, of a holding comprising demesne land or land suitable for building sites in the neighbourhood of a town or village. (*b*)

(3) Where the Land Commission report that they cannot sanction advances in respect of three-fourths in number and rateable value of the holdings on an estate, the Land Judge may, if he thinks fit, make an order declaring that the provisions of the said Section forty shall not apply to that estate, and that Section shall thereupon cease to apply.

How reports formerly made.

(*a*) **One Commissioner instead of two Commissioners.**—Prior to the Act of 1903 the report under Section 40 of the Act of 1896 was made by two Commissioners. If the two Commissioners to whom the matter was in the first instance referred could not agree, it was provided by Order XXXIX., Rule 3 of the Rules of March 1897 (*post* p. 410), that the sub-mission to them should stand discharged, and that thereupon the matter should be referred to two other Commissioners to report thereon.

In future the report will in the first instance be made by one Commissioner, and if the Land Judge considers the prices insufficient or deems that for any other reason the report requires amendment, he can require it to be reconsidered by three Commissioners.

The text of Section 40 of the Act of 1896 will be found in Appendix B, *post* p. 218.

Practice.

As to the practice under this Section, see Order XVII. of the Rules of 4th December 1903, *post* p. 534.

Right of Court tenants to get offer of holdings.

(*b*) Section 40 (1) (*b*) of the Act of 1896 directs the Land Judge to make to the person appearing to be in occupation as tenant of each holding on the estate an offer to sell to him the fee simple of the holding. It was decided in *Owen's Estate* (No. 2) [1897], 1 I. R. 265, that owners and other tenants under Court lettings are entitled as of right to have their holdings offered to them under that Section just as if they were ordinary tenants. Sub-section (2) of the Section now being noted introduces a qualification to this rule. It provides that persons in occupation of holdings comprising demesne land, or building sites under lettings made by the Land Judge or Receiver Judge, shall not be entitled to have such holdings offered to them unless the Land Judge so directs.

Qualification now introduced.

Demesne.

As to what are demesne lands, see Cherry's "Irish Land Acts," 3rd edit. p. 527.

Building sites.

Lettings of land which the landlord intended to eventually use for building purposes have generally been considered to be lettings for "temporary convenience," and as such excluded from the fair rent provisions of the Land Law Acts. (See *Eiffe* v. *M'Kenna*, 16 I. L. T. R. 39, and *Chaine* v. *Croker*, 12 L. R. I. 151.)

Limitation on advance to Court tenants.

It must be remembered that by virtue of Section 53 (*ante* p. 114) a tenant under a Court letting is not entitled to an advance of more than £1000, or under special circumstances £2000.

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Power to dispense with requirements respecting rights, boundaries, easements, &c. 21 & 22 Vict. c. 72.

59. For the purpose of facilitating sales under the Land Purchase Acts, the Land Judge may, if he thinks fit, subject to such conditions as may be prescribed by rules under Section twenty-three of the Act of 1896, dispense with all or any of the requirements in Sections fifty-four, fifty-five, and sixty-one of the Landed Estates Court (Ireland) Act, 1858, with respect to the ascertainment of rights, easements, and boundaries.

Provisions of L. E. C. Act as to easements, &c.

Section 54 of the Landed Estates Court Act provides that—

A. Where a sale is made under that Act, the Judge shall, when, and so far as he may deem necessary for the purpose of such sale, ascertain the rights of persons claiming right of common, rights of way, or other easements in the lands for sale, and shall also ascertain the boundaries thereof.

B. That the sale shall be made subject to the rights of common, rights of way, or other easements, and to such boundaries ascertained as aforesaid.

C. That, where the Judge shall think fit, the sale may be made subject to any condition concerning any easements, the nature of which shall not have been ascertained or shall be disputed.

Section 55 provides that where the Judge makes an order for sale, the conveyance shall be made by the Judge under the seal of the Court, and shall express or refer to the rights of way, rights of common, or other easements subject to which the sale is made.

Section 61 provides that—

(A) Every such conveyance purporting to pass an estate in fee simple, shall be effectual to pass the fee, subject to such rights of common or other easements, as may be expressed or referred to therein as aforesaid, but, save as aforesaid and as hereinafter provided, discharged from all former and other rights.

(B) Every such conveyance or assignment of a lesser estate than an estate in fee simple, shall be effectual to pass such estate but subject to such rights of common or other easements as shall be expressed or referred to in such conveyance or assignment, but, save as aforesaid, and as hereinafter provided, discharged from all rights affecting such lesser estate as aforesaid.

The words "save . . . as hereinafter provided," which occur twice in the foregoing Section, apparently apply to the provisions of Section 62, which except from the operation of Section 61 tithe rent-charges, quit and crown rents and drainage charges.

Difficulty of ascertaining easements in sales to tenants.

The duty of ascertaining easements cast upon the Court by the foregoing Sections was in many cases found inconvenient, and often prevented the sale of land in separate lots to occupying tenants, by reason of the great expense of ascertaining and defining the easements affecting each lot. (See observations of MADDEN, J., in *re Jameson's Estate* [1895], 1. I. R. 469.)

Easements in sales under L. P. Acts.

Section 34 of the Act of 1896 is as follows:—

"(1) A holding vested in a purchaser by a vesting order under this Act shall continue to have appurtenant thereto and to be subject to, as the case may be, any previously existing easements, rights, and appurtenances; and any privilege previously in fact enjoyed, whether by permission of the landlord or otherwise, in such manner and for such time that, if the holding had belonged to a different owner from the rest of the estate, it would have been an easement or right, shall be an easement or right within the meaning of this Section, and shall be appurtenant to or exerciseable over the holding, as the case may be.

"(2) The vesting order may, if the Land Commission think fit, declare that the sale is made subject to or free from any particular easement, right, or appurtenance, and such declaration shall have full effect.

"(3) This Section shall extend to any sale or declaration of title made by the Land Judge in pursuance of the Landed Estates Court (Ireland) Act, 1858, in like manner as if it were herein re-enacted with the necessary modifications."

Easements on sale to tenants by L. J.

In the case of *Ingham* v. *Mackey* [1898], 1 I. R. 272, it was contended that Section 34 (3) of the Act of 1896 in effect repealed the Landed Estates Court Act, 1858, as far as concerns the duty of that Court to ascertain easements, &c., in connection with a sale which was not made under the Land Purchase Acts. PORTER, M. R., in giving judgment in the case (at p. 289) says : "In my opinion it is perfectly plain that it (*i.e.* Sec. 34 (3)) has no such application. . . . The Section, apart from this third Sub-section, is limited strictly to the case of 'holdings' within the Land Acts and Amending Acts and Land Purchase Acts. It is applied in terms to cases where there is a 'landlord' of the holding. The 'owner' of the estate is spoken of. The Section occurs in an act forming part of a code dealing with Land Act tenancies alone. There is not the faintest trace of any intention to revolutionise the practice in dealing with Irish titles in the bulk, or to repeal the Landed Estates Act. . . . I think it was intended . . . to apply the provisions as to easements, &c., to cases of the sale of 'holdings' strictly so called, that is, holdings to which the Land Acts apply, when carried out through the Landed Estates Act." The learned judge, however, pointed out the difficulty of placing any intelligible construction upon Section 34 (3) which he characterised as a "fantastic specimen of draftmanship." The Section now being noted authorises the Land Judge, if he thinks fit, to dispense with the ascertainment of rights, easements, and boundaries. An order made by the Land Judge vesting land in the Commission will vest the land in them subject to any easements, rights, and appurtenances mentioned in Section 34 of the Act of 1896. See Section 7 (5) and Section 16 (1), *ante* pp. 21 and 50.

Easements need no longer be ascertained.

Power to ratify exchange of land in certain cases 21 & 22 Vict. c. 49.

60.—(1) Where, in the course of proceedings for the sale under the Landed Estates Court (Ireland) Act, 1858, or the Land Purchase Acts, of an estate, it appears that the owner or any tenants of holdings on the estate are in occupation of portions of an adjoining estate, and that the owner or any tenants of holdings on the adjoining estates are in occupation of portions of the first-mentioned estate, whether such exchange of occupation is the result of an agreement or is occasioned by the alteration of the course of a stream, or otherwise, the Land Judge or the Judicial Commissioner, as the case may be, may, if he thinks it expedient, with the consent of the owners of the respective estates, or on notice in the prescribed manner (*a*) to the owners and giving them an opportunity of being heard, make an order ratifying the exchange, and the order or a map or plan annexed thereto shall show the lands given and taken in exchange respectively.

(2) The land taken upon any such exchange shall be deemed to be held by the same tenure, and shall, without any conveyance or

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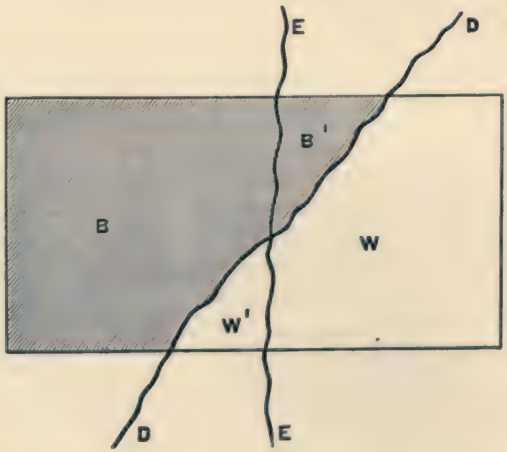
other assurance in relation thereto, go and enure to and upon the same uses and trusts and be subject to the same rents, conditions, charges and incumbrances, as the land given upon such exchange would have stood limited upon and been subject to if the Order had not been made; and the land given upon such exchange shall be deemed to be held by the same tenure, and shall without any conveyance or other assurance in relation thereto, go and enure to and upon the same uses and trusts, and be subject to the same rents, conditions, charges, and incumbrances, as the land taken upon such exchange would have stood limited upon and been subject to if the Order had not been made.

(3) All rights and remedies for recovery of rents payable in respect of either portions of the lands so exchanged shall be exercise-able in respect of, and may be pursued against, the lands given or taken upon such exchange, as the case may be, in the same manner as they might theretofore have been exercised or pursued against the lands originally liable thereto.

Illustration showing working of Sect.

The effect of this Section can be best explained by means of an illustration.



The shaded portion and the white portion in the above diagram represent two estates known respectively as Blackacre and Whiteacre. The two estates were formerly divided by the stream D—D. Subsequently, the stream shifted its course into the position E—E. The owners of Blackacre and Whiteacre still continued to regard the stream as their boundary, with the result that the owner of Blackacre went into possession of W', and the owner of Whiteacre into the possession of B'.

Blackacre is held in fee, and is subject to the trusts of a settlement, but

is unincumbered. Whiteacre is held under a lease for 100 years at a rent of £50 and is subject to mortgages.

Under Sub-section (1) an order may be made ratifying the exchange, and showing by a map or otherwise the two plots which have been exchanged.

Under Sub-section (2) the plot marked W′:

1. Shall be deemed to be held in fee, and shall cease to be subject to the rent and conditions in the lease under which it was held.

2. Shall become subject to the trusts of the settlement.

3. Shall become free from incumbrances.

And the plot marked B′:

1. Shall be deemed to be held under the lease, and shall become subject to the rent and conditions therein.

2. Shall be discharged from the trusts of the settlement.

3. Shall become subject to the mortgages.

Under Sub-section (3) the rights and remedies of the landlord of Whiteacre may be pursued against the plot marked B′ in the same manner, as before the order they might have been exercised against the plot marked W′.

Power of exchange under L. E. Court Act.

The Land Judge has also power to ratify an exchange under Sections 80 and 82 of the Landed Estates Court Act. These Sections will be found in Appendix B, *post* pp. 177, 178.

Section 85 of the same Act provides for the registration of such orders, and it would seem advisable to register orders made under the Act of 1903.

Under Act of 1885.

Section 11 of the Act of 1885 is as follows :—

"Where land to be sold under this Act is held by tenants in common or rundale or intermixed plots, it shall be lawful for the Land Commission, upon the application of either landlord or tenant, or if it shall seem expedient to the said Land Commission, to make orders for the partition, exchange, or division of such land, and the provisions of the seventy-ninth to the eighty-second Sections inclusive of the Landed Estates Court Act shall apply to such partitions, exchanges, and divisions."

Practice.

(*a*) **In the prescribed manner.**—As to the practice under this Section in the Land Commission, see Order XII. of the Rules of 4th December 1903, *post* p. 532. As to the practice in the Land Judges Court, see Order II. of the Land Judges Rules of 13th February 1905, *post* p. 554.

Apportionment of quit and Crown rents.

61.—(1) If any land the subject of proceedings for sale under the Land Purchase Acts is liable, in conjunction with other lands, to any quit rent, or other perpetual rent payable to the Crown, the Commissioners of Woods may apportion such rent upon or amongst the several lands liable to the payment thereof, or upon or amongst any part or parts of those lands in exoneration of the remainder thereof, or may charge the whole of any such rent on any part of the lands charged therewith in exoneration of the remainder of those lands.

(2) For the purpose of apportionment or exclusive charge under this Section, when any such rent or any portion thereof has been for a period of not less than twenty years, or is under the provisions of any contract, paid in respect of any lands, such rent, or portion thereof, as the case may be, shall be deemed to be charged on those lands whether originally so charged or not. (*a*)

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(3) Every such apportionment or exclusive charge shall be binding on the Crown and on every person, and the apportioned parts of any such rent, or any such rent so exclusively charged, shall thenceforth be issuing out of and chargeable upon the lands whereon the same may be apportioned or exclusively charged.

(4) No such apportionment or exclusive charge shall in any manner prejudice or affect any reversion or remainder of the Crown in any lands originally charged with any such rent so apportioned or exclusively charged, nor shall the sale of any apportioned part of a rent, or of a rent so exclusively charged, or of any interest of the Crown in reversion or remainder in the same land, affect the right or interest of the Crown in any other part of the lands originally charged with any rent so apportioned or exclusively charged, either as regards the part of any rent charged upon those lands and remaining unsold, or the interest in remainder or reversion, of the Crown in those lands, or otherwise. (*b*)

(5) Where such apportionment or exclusive charge has been made, a certificate shall be issued under the hand of the Commissioners of Woods, setting forth the terms thereof, and that certificate shall be conclusive evidence of those terms, and of the liability of the lands mentioned therein, to the rent or part of a rent so exclusively charged or apportioned thereon. A duplicate of the certificate shall be deposited in the Public Record Office in Dublin.

(6) The Commissioners of Woods may remit for the determination, under the powers conferred by any existing enactment, of the Land Judge or a Judicial Commissioner, any case under this Section involving a question of law, or other question which those Commissioners are unwilling to determine. (*c*)

(7) Rules for the purpose of this Section shall be made by the Commissioners of Woods, with the approval of the Lord Chancellor, the Land Judge, and the Judicial Commissioner. (*d*)

Apportionment of quit rents under L. E. Court Act.

The powers given by this Section to the Commissioners of Woods are similar to the powers given to the Court by Section 68 of the Landed Estates Court Act, 1858 (see Appendix B, *post* p. 173), and in fact Sub-sections (1), (3), and (4) follow almost verbatim the first part of Section 68. The powers given to the Landed Estates Court were by Section 10 of the Act of 1885 conferred upon the Land Commission. Further extended powers were given to the Commission by Section 15 of the Act of 1887 and Section 31 of the Act of 1896. Section 68 of the Landed Estates Court Act only applied to Crown rents, but Section 12 of the Crown Lands Act, 1894 (57 & 58 Vict. c. 93), extends that Section to any quit rent or other perpetual rent payable to the Crown in respect of land in Ireland. It has been decided that the additional powers given by this Section to the Land Judge are also exercisable by the Land Commission. (*In re Marti's Estate* [1900], 2 I. R. 259.) Under

Apportionment of quit rents by L. C.

the foregoing Sections the Land Commission have power with the consent of the Commissioners of Woods and Forests—

A. To apportion any quit rent, or other perpetual rent payable to the Crown, amongst the lands liable thereto, in such manner as may appear equitable; such apportionment not to be necessarily an apportionment as between the lands sold and the rest of the lands liable. Or,

B. To charge the whole of such rent on any part of the lands liable, in exoneration of the remainder of those lands.

Every such apportionment or exclusive charge shall be binding on the Crown and on every person. The apportioned part, or the entire rent, as the case may be, shall thenceforth issue out of the lands made liable thereto, and shall alone be deemed to be the rent chargeable thereon.

By Section 33 of the Act of 1896, it is provided that the powers of apportionment conferred by Section 15 of the Act of 1887 shall apply to the purchase money of a holding, as if the money were the holding, and shall apply to any contingent liability for a rent in like manner as they apply to the rent itself. Section 15 of the Act of 1887 and Sections 31 and 33 of the Act of 1896 will be found in Appendix B, *post* pp. 204, 214, 216.

In *Butler's Estate* (31 I. L. T. & S. J., p. 86) BEWLEY, J., expressed the opinion that under Section 31 (4) of the Act of 1896, where a holding is sold by the Land Judge to the tenant thereof, and an advance under the Land Purchase Acts is made for the purpose, the Land Judge has all the powers of apportionment and redemption conferred by the Land Purchase Acts on the Land Commission; but that where the Land Judge sells to the Land Commission and not to a tenant, these powers do not appear to exist; but see now Section 7 (4) of the Act of 1903, *ante* p. 21.

Apportionments must now be made by Commissioner of Woods.

Applications for the apportionment of quit and Crown rents were formerly made by notice of motion, grounded upon a statement of facts under Order XX., Rule 3 of the Rules of March 1897 (*post* p. 388), but it is now provided by Order VIII., Rule 2 of the Rules of 4th December 1903 (*post* p. 526), that no application for the apportionment of any quit rent or other perpetual rent payable to the Crown, to which the provisions of Section 61 of the Act of 1903 apply, shall be made under Rule 3 of Order XX. of the Rules of 1897 without the leave of the Commissioner. The Land Judges Rules of 13th February 1905 contain a similar provision. See those Rules, *post* p. 554. Section 62 of the Act of 1903 nominally applies to all superior interests, but it seems doubtful whether quit rents and Crown rents can be dealt with under it, as they are not expressly named, and as special provision is made for them by the Section now being noted.

Where quit rents paid out of particular lands for a long period.

(*a*) This Sub-section carries out a principle which has already been acted upon by the Courts. In *Blake's Estate* (6 I. W. L. R. 54), where a quit rent had been paid for over forty years out of portion of the lands liable thereto, MEREDITH, J., held that where quit rents have been paid in certain proportions for a long period, on apportioning such quit rents the Court will presume a lost deed between the parties apportioning the rents in such proportions.

In *Longworth's Estate* (7 I. W. L. R., 57) MEREDITH, J., held that where quit rents jointly charged upon the lands of different owners have been paid out of the lands of one of such owners for a long period of time, the Court will presume that such payments were made under a deed or agreement, and exclusively charge them on the lands out of which they have been so paid. In this case it was proved that they had been paid out of the lands on which they were exclusively charged for thirty-five years.

In *Bomford's Estate* (38 I. L. T. R. 105) (affirmed on appeal, 38 I. L. T. R.

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139) the grantor in two grants made in the years 1708 and 1710 covenanted to pay the quit rent to which the lands comprised in the grants were, together with other lands, liable. It was proved that for more than a century the quit rent had been paid by the owners of the grantee's interest in the grant of 1708. Ross, J., held that a lost deed must be presumed under which the quit rent ceased to be payable by the grantors, and became charged on the grantee's estate.*

Analysis of Sub-sect. (4).

(*b*) This Sub-section is rather involved in its terms, and an analysis of its provisions may make its meaning plainer.

It provides:—

A. That the apportionment or exclusive charge is not to affect the reversion or remainder of the Crown in any lands originally charged with the rent, *e.g.*: Suppose a patent grants the lands of Blackacre and Whiteacre to the patentee in tail subject to a quit rent, and that the quit rent is exclusively charged on Blackacre under the provisions of this Section. This will not prevent the Crown from recovering both Blackacre and Whiteacre should the estate tail subsequently determine.

B. Where a rent is apportioned or exclusively charged, and the apportioned part, or the entire rent, as the case may be, is sold, the sale shall not affect the right or interest of the Crown in any other part of the lands originally subject to the rent, either as regards the part of the rent (if any) remaining a charge on those lands, or as regards the reversion or remainder of the Crown in such lands.

C. Where a rent is apportioned or exclusively charged, and the interest of the Crown in reversion or remainder in the lands made subject to the apportioned part, or the entire rent, as the case may be, is sold, the sale shall not affect the right or interest of the Crown in any other part of the lands originally subject to the rent, either as regards the part of the rent (if any) remaining a charge on those lands, or as regards the reversion or remainder of the Crown in such lands.

The redemption of quit and Crown rents is carried out by means of a conveyance from the Commissioners of Woods and Forests, and the word "Sale" in the Sub-section no doubt refers to this.

Redemption of quit rents and Crown reversions.

As to the powers of redeeming quit rents and other superior interests, see Section 64 and the notes thereto, *post* p. 138.

As to the redemption of Crown reversions, see Section 98 (2), *post* p. 159.

Practice.

(*c*) As to the practice under this Sub-section in the Land Commission, see Order VIII., Rule 3 of Rules of 4th December 1903, *post* p. 527. As to the practice in the Land Judges Court, see Land Judges Rules of 13th February 1905, *post* p. 554.

The Commissioners of Woods and Forests are entitled to full audience on the hearing of an application under the Landed Estates Court Act, and the Land Judge cannot make them give an undertaking to pay costs if unsuccessful. *Gardiner's Estate*, 37 I. L. T. R., 164.

Rules.

(*d*) Rules made by the Commissioners of Woods under this Sub-section will be found at p. 319, *post*.

As to superior interest where security sufficient.

62.—(1) Where any land sold (*a*) under the Land Purchase Acts is subject, in conjunction with other lands, to any superior interest, (*b*) and the Court is satisfied that, for a period of not less than twenty years prior to the sale, no payment has been made in respect of that interest by the owner of the land sold, and that the other lands

* See Addenda.

subject thereto are a sufficient security therefor, the purchase money of such land may be distributed without regard thereto.

(2) Where in the like case the Court is satisfied that, for a period of not less than twenty years prior to the sale, payment in respect of a portion only of the superior interest has been made by the owner of the land sold, and that the other lands are a sufficient security for the balance thereof, the purchase money of the land sold may be distributed without regard to that balance.

(3) Where in the like case the Court is satisfied that the land sold is entitled to be indemnified against any claim in respect of a superior interest by other lands, and that the other lands are a sufficient security therefor, the Court may, upon such terms (if any) and in such manner as appears equitable, exclusively charge the whole of the superior interest upon the other lands.

(4) The foregoing provisions of this Section shall apply with the necessary modifications to any superior interest or portion thereof affecting the land sold, or to the redemption money of such interest or portion, as if the same were land sold.

(5) This Section shall not apply to any reversion or estate expectant on the determination of an estate tail or a base fee which is vested in the Crown. (*c*)

Practice as to indemnities prior to Act 1903.

Prior to the Act of 1896, where lands sold under the Land Purchase Acts were liable in conjunction with other lands to a superior interest, but had a right of indemnity in respect thereof, it was necessary to apportion the superior interest, and to redeem the portion thereof placed upon the lands sold, even although those lands had not in fact paid any part of the superior interest, or had paid a smaller part thereof than was apportioned thereon. To remedy the injustice thus caused to the owner of the sold lands (who was compelled to redeem a part of a superior interest which he had never paid), Section 33 (4) of the Act of 1896 provided that he should thereupon become entitled to a portion of the superior interest, equivalent in amount to the part which he had redeemed, and which he had not theretofore been liable to pay, issuing out of the indemnifying lands. This Section, the full text of which will be found in Appendix B, *post* p. 216, only applied to annuities, rent-charges, and rents, and was not found to be very satisfactory in practice.

New practice as to indemnities.

The provisions of the Section now being noted are intended to take its place. Under this Section where the lands for sale are subject to a superior interest, but are indemnified therefrom, or from portion thereof, and the indemnifying lands afford sufficient security for the entire superior interest, or for the balance thereof, as the case may be, the lands for sale may practically be dealt with as if the superior interest or the balance thereof did not affect them. It is necessary, however, for a vendor, before he can take advantage of the Section, to show that his case comes within the terms thereof.

Where no payment for twenty years.

Sub-section (1) provides for cases in which no document creating an indemnity is forthcoming, but where it can be proved that the sold lands have paid no portion of the superior interest for a period of twenty years.

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Where payment of part only for twenty years.

Where indemnity against entire superior interest exists.

Where indemnity against part of superior interest exists.

Higher superior interests.

Sub-section (2) provides for cases in which no document creating an indemnity is forthcoming, but where it can be proved that the sold lands have paid a certain portion only of the superior interest for a period of twenty years.

Sub-section 3 provides for a case in which some document creating an indemnity is forthcoming, under the terms of which the sold lands are liable to *no part* of the superior interest.

The Section does not provide for the case of an indemnity limiting the liability of the sold lands to *portion only* of the superior interest, and therefore, unless such indemnity has been in existence for twenty years and upwards, the Section apparently does not apply to such a case at all.

Sub-sections (1), (2), and (3) only apply to such superior interests as are payable by the owner of the lands for sale, and do not deal with higher superior interests, which may be charged thereon; *e.g.* if the lands for sale are held under a long lease sub-sections (1), (2), and (3) would enable the rent reserved by that lease to be dealt with. If, however, the landlord who receives the rent under the lease is liable in turn to pay a superior rent, then that superior rent cannot be dealt with under the provisions of the first three Sub-sections. Sub-section (4) is evidently intended to provide for such higher superior interests, and to make the provisions of Sub-sections (1), (2), and (3) applicable thereto, but it does not seem clear whether the language of Sub-section (4) is effectual to carry out this intention.*

Case held not to come within Section.

In *M'Cormac's Estate*, Ross, J. (not reported, order dated 16th December 1903), the facts were as follows: Three denominations, A, B, and C, were held under a lease for ever at the rent of £220 (Irish). The lessee under the lease made a sub-lease for ever of A and B at a rent of £60 (Irish), equivalent to £55, 7s. 9d. (British), and then by his will devised A and B to Y subject to £13, 8s. 8d. (Irish) portion of the rent of £220 (Irish) and C to Z subject to the residue of the rent, and deeds creating indemnities were subsequently entered into between Y and Z. A and B passed into the hands of two different owners, one of whom, the owner of A, for a period of more than twenty years prior to the sale, paid to Y the annual sum of £9, 4s. 8d., portion of the rent of £55, 7s. 9d., and the other of whom paid to Y the residue of the said rent. A having been sold under the Land Purchase Acts, an application for the apportionment of the rents of £220 (Irish) and £55, 7s. 9d. (British) was made. It was contended on behalf of Y that the apportionment of the rent of £220 (Irish) arrived at between Y and Z should be recognised, and that, for the purpose of arriving at the proportion of the rent of £220 (Irish) to be placed on A, it should be assumed that £13, 8s. 8d. (Irish) was the portion thereof chargeable on A and B. Ross, J., decided that the provisions of Section 62 did not apply to the rent of £220 (Irish), and that it should accordingly be apportioned upon the basis of the tenement valuations of the three denominations, but he apportioned the rent of £55, 7s. 9d. by placing £9, 4s. 8d. thereof upon A, and the residue thereof upon B. The point was not raised in this case as to whether the Section enables higher superior interests to be dealt with.

In *Hartigan's Estate* (38 I. L. T. R., 214, MEREDITH, J.) an application was made under Sub-section (1) to distribute the purchase money of an estate without regard to a sum payable in respect of an ecclesiastical tithe rent-charge. *Held* that Section 7 of the Tithe Rent-charge (Ireland) Act, 1900, does not conflict with Section 62 of the Act of 1903, and that the Court had power to distribute the purchase money without regard to the tithe rent-charge.

Section 7 of the Tithe Rent-charge Act provides that, "Where the hereditaments out of which any tithe rent-charge is payable are separately

* See Addenda.

owned by several persons liable to pay the tithe rent-charge, any of such owners shall be liable only to pay such proportion of the whole tithe rent-charge as the rateable value of the hereditaments separately owned by him or them bears to the rateable value of the whole of the hereditaments out of which such tithe rent-charge is payable."*

In *O'Conor's Estate* (38 I. L. T. R. 256) the lands sold were held with other lands under a lease for ever, made in the year 1836. It appeared that although the lessee was, as the owner of the first estate of inheritance, liable to the tithe rent-charge under the Tithe Rent-charge Act, 1838, the rent-charge had in fact since 1836 been paid by the owner of the lessor's interest. MEREDITH, J., held that Section 62 applied and distributed the purchase money without regard to the rent-charge.*

Treatment of cases not within the Section.

It must be remembered that the provisions of Section 62 only apply where the indemnifying lands afford sufficient security for the superior interest; if this is not the case, or if for any other reason the provisions of that Section are inapplicable, then the parties must fall back upon the provisions of Section 33 (4) of the Act of 1896, unless they can induce the Court, in exercise of its discretionary powers under the Land Purchase Acts, to apportion the superior interest in the manner desired. The Court can, irrespectively of Section 62, apportion superior interests in such manner as shall appear equitable (Sect. 31 (3), Act of 1896), and is not apparently under any obligation to apportion upon the basis of the Government valuations. In practice, however, that course is almost invariably adopted.

Powers of apportionment exercisable by Land Commission.

The powers of apportionment exercisable by the Land Judge have already been fully dealt with in the notes to Section 7; see note (*j*), *ante* p. 27. The powers of apportionment exercisable by the Land Commission under the various Land Purchase Acts are as follows:—

Section 10 of the Act of 1885 declares that the Land Commission shall have the powers vested in the Land Judge by, *inter alia*, Sections 68 and 72 of the Landed Estates Court Act, and that in the latter Section the term "rent" shall include a fee farm rent.

Section 68 of the Landed Estates Court Act provides that—

Crown rents.

A. The Court may, with the consent of the Commissioners of Woods, apportion any Crown rent amongst the lands liable thereto, or charge the whole of such rent on any part of the lands in exoneration of the remainder.

Charges.

B. The Court may, where part only of any land or lease, subject to any incumbrance or charge is sold, charge the part not sold with such incumbrance or charge, or an apportioned part thereof, in exoneration of the money arising from the sale.

The full text of Section 68 will be found in Appendix B (*post* p. 173).

Quit rents.

Section 12 of the Crown Lands Act, 1894 (57 & 58 Vict. c. 43), provides that the powers of apportionment and exclusive charge of any Crown rent conferred by the above Section shall extend to any quit rent or other perpetual rent payable to the Crown in respect of land in Ireland, and may be exercised whether the land liable to the rent is being sold by the High Court or not.

Rents.

Section 72 of the Landed Estates Court Act provides that where it is intended to sell under that Act a part only of any lease in perpetuity or other lease, the Court may, where it thinks fit, and (having regard to the rights and interests of the owner of the reversion) it appears to the Court just so to do, apportion the rent reserved by such lease between the land to be sold and the remainder of the land.

The full text of Section 72 will be found in Appendix B, *post* p. 174.

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* See Addenda.

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Crown rents, quit rents, and tithe rent-charges.

Land improvement and drainage charges.

Section 15 of the Act of 1887 provides that when any land sold under the Land Law (Ireland) Acts is subject with other lands to any Crown rent, quit rent, or tithe rent-charge, the Land Commission may, if they think it expedient, apportion such Crown rent, quit rent, or tithe rent-charge between the land sold and the other land, in such manner as to them seems equitable; and when any such land is subject with other lands to any land improvement charge or drainage charge, the Commissioners of Public Works, on the requisition of the Land Commission, may apportion the same between the land sold and other lands, and may issue a certificate setting forth such apportionment; but no apportionment of Crown or quit rents is to be made without the consent of the Commissioners of Woods, and no apportionment of land improvement charges or drainage charges is to be made without the consent of the Treasury. For full text of this Section, see Appendix B, *post* p. 204.

Annuities and rent-charges.

Section 16 (1) of the Act of 1887 provides that when any land sold under the Land Law (Ireland) Acts is subject with other lands to any annuity or rent-charge, the Land Commission may, if they think it expedient, by order apportion the same as between such land and the other lands subject thereto. For full text of this Section, see Appendix B, *post* p. 205.*

Superior rents.

Section 20 of the Act of 1891 provides that the provisions of Section 16 of the Act of 1887 shall apply to any superior rent affecting a tithe rent-charge or rent ordered to be redeemed pursuant to the provisions of the Act of 1887, or to any fee farm grant or lease reserving the same. The full text of this Section will be found in Appendix B, *post* p. 208.

Superior interests.

Section 31 (3) of the Act of 1896 declares that the powers of apportionment and redemption given to the Land Commission by Section 10 of the Act of 1885 and by Sections 15 and 16 of the Act of 1887, shall extend to superior interests and be exercised in such manner as shall appear equitable, and shall not be limited to an apportionment between the land sold and the residue of the land subject to the superior interest. The full text of this Section will be found in Appendix B, *post* p. 215.

Superior interests are defined by this Section. See note (*d*) to Section 7, *ante* p. 25.

Powers of apportionment apply to purchase money of sold holdings.

Section 33 (1) of the Act of 1896 provides that for the purpose of the distribution of, or other dealing with, an advance, Sections 15 and 16 of the Act of 1887, and any other unrepealed enactment in the Land Purchase Acts, or the Act of 1896, relating to the redemption or apportionment of charges on holdings, or otherwise to the distribution of the purchase money of a holding, shall apply as if the money were the holding.

Contingent liabilities.

Sub-section (3) of the same Section provides that Sections 15 and 16 of the Act of 1887, as amended by Section 33 of the Act of 1896, shall apply to any contingent liability for any annuity, rent-charge, or rent, in like manner as they apply to the annuity, rent-charge, or rent itself, and where any contingent liability has no appreciable value, the money may be distributed without regard to such liability.

Where indemnities against Crown rents, tithes and drainage charges.

Although Section 62 nominallly applies to all superior interests, it is thought that quit and Crown rents will not be dealt with under it, special provisions having been made for such rents by Section 61. Land improvement charges and drainage charges cannot be apportioned without the consent of the Treasury, and this fact may possibly prevent their being dealt with under Section 62 unless the Treasury so consent.

Practice.

As to practice under this Section in the Land Commission, see Order VIII., Rule 5 of Rules of 4th December 1903, *post* p. 527. As to the practice in the Land Judges Court, see Land Judges Rules of 13th February 1905, *post* p. 554.

* See Addenda.

(*a*) **Land sold**—Means land agreed to be sold and for the purchase of which advances have been sanctioned. See Cherry's "Irish Land Acts," 3rd edit., p. 422.

(*b*) **Superior interest.**—For meaning of, see note (*d*) to Section 7, *ante* p. 25.

Section does not apply to reversions.

(*c*) Section 98 (*post* p. 159) declares that the expression "superior interest" shall include Crown Reversions expectant on the determination of estates tail and base fees, and Sub-section (5) of the Section now being noted is no doubt intended to exclude such reversions from the operation of Section 62. This, however, would seem to be unnecessary, as Section 62 does not apparently apply to reversions, whether vested in the Crown or any one else. Lessees, and other persons holding subject to superior interests, can make arrangements between themselves as to the proportions in which those interests are to be borne by the various parts of the lands, so long as their title thereto continues. It does not seem possible, however, for them to arrange that the reversion existing in respect of one part of the lands shall be satisfied out of another part thereof. The value of an indemnity as between lessees depends upon the value of the lessee's interest in the indemnifying lands. When a reversion comes into possession, the lessee's interest has ceased to exist, and an indemnity based thereon would have nothing to support it.

The consequence of this is that although Section 62 enables the Court to deal with rents and other like superior interests in respect of which indemnities exist, it gives it no power to deal with the reversions to which those superior interests are attached. These reversions must therefore be apportioned and redeemed in the same manner as other superior interests, in respect of which there are no rights of indemnity. The Court can, however, under Section 31 (5) of the Act of 1896 distribute the purchase money without having regard to any superior interest which it may consider to be of no appreciable value.*

As to the powers of the Court relative to the redemption of superior interests, see Section 64 and the notes thereto, *post* p. 138.

Superior interests not exceeding certain amounts.

63.—(1) Where any superior interest, or an apportioned part thereof, is redeemed under the Land Purchase Acts, and there demption price does not exceed thirty pounds, it may be paid to the person in possession or in receipt of the income of the superior interest for his own benefit, (*a*) or, in case of the incapacity of such person, to the guardian, committee, husband, or trustees, as the case may be, of such person.

(2) If the redemption price exceeds thirty pounds, but does not exceed one hundred pounds, it may be paid to the person in possession or in receipt of the income of the superior interest, or to trustees to be appointed or approved (*b*) by the Land Commission, or the Land Judge, as the case may be, upon the undertaking in the prescribed manner of such person, or of such trustees, to apply the redemption price as if it were capital money arising under the Settled Land Acts, (*c*) 1882 to 1890.

Object of Section.

Prior to the Act of 1903 the redemption money of a superior interest could not be paid out to the person entitled until he had shown strict title

* The same remarks apply to exceptions and reservations in leases, which should, therefore, if possible, be shown to be of no value so as to make Sect. 31 (5) of the Act of 1896 apply.

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thereto. This was often an expensive matter, and sometimes indeed the costs of proving the title exceeded the redemption price of the superior interest. These costs were payable by the estate, and, where the superior interests were numerous, formed a serious item of expenditure. It was for the purpose of remedying this evil that the Section now being noted was passed. It practically dispenses with the necessity of showing title in all cases where the redemption money does not exceed £100. All that is now necessary is to produce some evidence that the claimant is in receipt of the superior interest; a short affidavit is generally the most convenient method of showing this.

Where the redemption price exceeds £30, but does not exceed £100, the person to whom it is paid must also sign an undertaking in the form prescribed by Order VIII., Rule 6 of the Rules of 4th December 1903. (See those Rules, *post* p. 527.) In Land Judges matters the undertaking must be in the form prescribed by the Land Judges Rules of 13th February 1905, *post* p. 554.

(*a*) **For his own benefit.**—These words no doubt mean that where the redemption money does not exceed £30, it becomes the absolute property of the person for the time being in receipt of the income of the superior interest, and this whether he is the absolute, or the limited owner thereof. It is conceived, however, that where such person is interested in a fiduciary capacity only, he will be bound to apply the money for the benefit of the trust.

Sub-section (1) of the Section now being noted is very similar in its terms to Section 72 of the Lands Clauses Consolidation Act, 1845.

(*b*) **Trustees to be appointed or approved.**—Where the redemption money exceeds £30 and is subject to a trust, of which there are no trustees, trustees must apparently be *appointed* by the Land Commission or the Land Judge as the case may be. If there are trustees, then it would appear that these trustees must be *approved* by the Land Commission or the Land Judge before the money can be paid out to them. As to the power of the Land Commission to appoint trustees, see notes to Section 52, *ante* p. 112. As to the powers of the Land Judge, see Madden's "Practice before the Land Judge," 3rd edit., pp. 87, 117, 202, and 342.

Fixing redemption price.

As to the fixing of the redemption price, and the powers of the Court to order the compulsory redemption of superior interests, see notes to Section 64, *infra*.

(*c*) **Capital money arising under the Settled Land Acts.**—As to the application of "capital money," see Settled Land Act, 1882, Sections 21 and 22, also Settled Land Act, 1887, Sections 1 and 2, Settled Land Act, 1890, Section 13, Appendix B, *post* pp. 190, 191, 202, 203, 207. The framers of the Act appear to have overlooked the fact that the person in receipt of the superior interest will in many cases be the absolute owner thereof, and that the provisions of the Settled Land Acts will in such cases be inapplicable.

Amendment of 50 & 51 Vict. c. 33, s. 16 (3) as to fixing redemption price.

64. Notwithstanding anything in Sub-section (3) of Section sixteen of the Act of 1887, if the parties do not within the prescribed time (*a*) agree upon the redemption price of a superior interest, that price shall be determined by the Judicial Commissioner or the Land Judge as the case may be.

Fixing redemption price. Old method.

Under Section 16 of the Act of 1887 the redemption price of a superior interest (except lay impropriate tithe rent-charge the price of which could be fixed by the Commission) could only be determined in one of three ways:

(1) By agreement between the parties.

(2) By the Court, if the parties so consented.

(3) By arbitration.

(For text of Section 16 of the Act of 1887, see Appendix B, *post* p. 205.)

New method.

Now by virtue of the above Section, if the parties do not agree on a price within the prescribed time, the price shall be determined by the Court.

There are, however, certain exceptions to this Rule.

Quit rents.

(A) Quit rents and Crown rents payable to the Crown can only be redeemed with the consent of the Commissioners of Woods (Section 15 (3), Act of 1887), and this consent will only be given on condition that twenty-five years purchase is paid.

Tithes.

(B) Tithe rent-charges payable to the Land Commission which are variable under the Tithe Rent-charge (Ireland) Act, 1900, can only be redeemed with the consent of the Treasury (Section 15 (3), Act of 1887 ; Section 37 (1), Act of 1896, and Section 9 of Tithe Rent-charge Ireland Act, 1900), who require twenty-two and a half years purchase to be given.

Annual instalments under Section 32 of the Irish Church Act, 1869, may be ordered to be redeemed at a sum calculated on the basis of the annual sum being payable for a term of forty-five instead of fifty-two years. (Section 37 (2), Act of 1896.)

The consent of the Treasury is not necessary in the case of other tithe rent-charges payable to the Land Commission, provided that the price is fixed at not less than twenty years purchase. (Section 37 (1), Act of 1896.) For full text of Section 37, see Appendix B, *post* p. 218.

Land improvement and drainage charges.

(C) Land improvement and drainage charges can only be redeemed with the consent of the Treasury (Section 15 (3), Act of 1887), who require these charges to be redeemed in accordance with the scale fixed by the Acts under which they are created.*

Crown reversions.

Prior to the Act of 1896, Crown reversions could not be redeemed without the consent of the Commissioners of Woods and Forests, who only gave this consent at a redemption price fixed by themselves. Section 31 (8) of the Act of 1896 (see Appendix B, *post* p. 216) provided that the expression "superior interest" should include any reversion or estate expectant on the determination of a lease for lives or years renewable for ever, or for a term of years of which not less than sixty were unexpired at the date of the sale, and notwithstanding that such reversion or estate was vested in the Crown. This enabled reversions or remainders expectant upon such leases to be redeemed without the consent of the Commissioners of Woods and Forests, but it did not enable reversions or remainders expectant on other particular estates to be redeemed, such, for instance, as a reversion on an estate tail created by a patent from the Crown: *Fischer's Estate* [1901], 1 I. R. 377. Section 98 (2) of the Act of 1903 now provides that the expression "superior interest" in the Land Purchase Acts shall include any reversion or estate expectant on the determination of an estate tail or a base fee, whether such reversion or estate is or is not vested in the Crown. This apparently enables Crown reversions, expectant on the determination of the above mentioned estates, to be compulsorily redeemed. It would also appear that the redemption price of Crown reversions can now, by virtue of Section 64 of the Act of 1903, be fixed by the Court. The meaning of a "base fee" is explained in the notes to Section 7, *ante* p. 26. In *Murphy's Estate*, 34 I. L. T. R. 42 (C. A.), the facts were as follows : Murphy held in fee farm from Lord Ormonde, but subject to a Crown reversion expectant on the determination of the Ormonde estate tail. The lands were being sold under Section 40 of the Act of 1896, and Murphy and Lord Ormonde

* See Addenda.

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agreed that the fee farm rent should be redeemed at twenty-five years purchase, but the agreement was silent as to the redemption of the Crown reversion. *Held* that Lord Ormonde could not be compelled to redeem it.

Head landlord's sporting rights.

It has been decided by MEREDITH, J., in *Macnaghten's Estate* (38 I. L. T. R. 222) that sporting rights which are not in the possession or enjoyment of the vendor at the time of the sale cannot be compulsorily redeemed, upon the grounds that there is no power under Sections 16 and 24 to attach such rights to the purchase money. It does not, however, seem to have been decided whether, if the owner of the purchase money consents to the sporting rights attaching thereto, he can require them to be compulsorily redeemed contrary to the wish of the owner thereof.

Redemption price of head rents.

Prior to the decision in *Leader's Estate* (38 I. L. T. R. 197) [1904], 1 I. R. 368, there were no very well settled rules as to fixing the redemption price of head rents, and therefore the decisions prior to that case (a number of which are collected at p. 427 of Cherry's "Irish Land Acts," 3rd edit.) cannot now be regarded as of much value.

In *Leader's Estate*, ROSS, J., having fixed the redemption price of a head rent at twenty-seven and a half years purchase, and it appearing that he had taken into consideration the return which the owner of the head rent would get from the redemption money when invested in trustee securities, an appeal was taken. The Court of Appeal decided that ROSS, J., had proceeded upon an erroneous principle, and referred the case back to him for reconsideration. The order of the Court of Appeal laid down the principles which should be acted upon in fixing redemption prices. The order was as follows: "Declare that the redemption price of the rent in the order appealed from ought to be fixed at the price or sum which appears upon due consideration of all the circumstances of the case—of the selling value of similar interests, of the value of money, and of the fact that the redemption is compulsory—to be the fair value thereof; but that the amount of the said price ought not to be affected by the consideration of indemnifying the owner of the said rent against loss of income by reason of the difference between the annual amount of the said rent and the annual income of any class of investment in which the redemption money might be invested."

When the matter came on before ROSS, J., for reconsideration, he fixed the price at twenty-five and a half years purchase. The rent was £94, 9s. issuing out of 443 ac. 0 rds. 4 ps. Gross rental immediately prior to sale, £243, 3s. 9d., Poor Law Valuation, £203. *Leader's Estate*, 39 I. L. T. R. 8.

The effect of the decision in *Leader's Estate* appears to be practically this —that the price is to be fixed at the market value, plus an additional sum for compulsory purchase. The second factor which, according to *Leader's Estate*, is to be taken into consideration—namely, the value of money—appears to be included in the first, as the market price of all securities fluctuates with the value of money. Where land is taken under the Lands Clauses Acts, 10 per cent. is generally added to the redemption price on account of compulsory purchase, but in *Kemmis' Estate* (No. 2), 38 I. L. T. R. 241 [1904], 1 I. R. 496, FITZGIBBON, L. J., deprecated the adoption of any hard-and-fast rule as to the amount to be allowed for compulsory purchase. (See note of that case, *post* p. 142.)

In *Close's Estate*, 39 I. L. T. R. 26 (MEREDITH, J.) the redemption price of a variable perpetuity rent of £1836, 16s. 7d. payable to Trinity College, Dublin, was fixed at £45,000, or, practically, twenty-four and a half years purchase. The gross rental of the lands was £2171, 10s. 4d., and the net rental, after deducting agents' fees, law expenses, &c., was £1954, 9s. 1d. The rents were practically all second term rents. The acreage of the lands was 3294 ac. 2 rds. 16 ps., and the poor law valuation £3528, 3s. The College appealed on the grounds that the redemption price was insufficient and had

been arrived at upon erroneous principles. The Court of Appeal affirmed MEREDITH, J., and laid down the following principles:—

1. That the price to be paid for a superior interest is that which will purchase an investment equally secure which will produce an income equal to that of the superior interest, together with a small addition for compulsory purchase.

2. That the subject matter to be valued is the interest of the owner of the superior interest in the land sold at the moment of the sale—not a perpetual annuity charged on the purchase money of an amount equal to the income yielded by the superior interest.

3. Special circumstances of the individual—as distinguished from circumstances affecting the property—are not to be considered; *e.g.* the fact that Trinity College was bound to invest the redemption money in certain securities producing a low rate of interest did not entitle the college to extra compensation.

4. There is no rule of law, where a sale takes place within the zones, that the number of years purchase to be paid for the superior interest must be at least as many as the vendor receives from his tenants upon his net income; but where a sale takes place outside the zones PALLES, C. B., appeared to think that such a rule would apply in cases similar to that before the Court.

5. The amount of the purchase money received by the vendor is an element to be considered, but the other circumstances of the case must also be taken into consideration. The decision of the Court of Appeal is reported in [1903] 1 I. R. 371.*

Redemption price of jointure.

In *Redmond's Estate* (38 I. L. T. R. 248) an application was made to fix the redemption price of a jointure of £500. It appeared that, prior to the sale, the lands had only produced sufficient to pay the jointress about £450 a year, but that the sale had resulted in producing an amount sufficient to pay the jointure in full, and leave a good annual sum over. The jointress was in her sixty-ninth year, and evidence was given that it would take £4750 to purchase her an annuity of £500 from the Standard Insurance Company. It was further proved that such an annuity, if sold in the open market, would realise from £3000 to £3500. MEREDITH, J., fixed the price at £4400, saying that he did not think, having regard to the principles laid down in *Leader's Estate* (*ante* p. 140), he would be justified in approaching the case from the point of view of absolute indemnity, but that in fixing the price he had considered the element of compulsion.*

In *Clelland's Estate* ([1899] 1 I. R. 505), ROSS, J., decided that since the change in the law as to poor rate made by the Local Government Act, 1898, no poor rate can be deducted, the gross, and not the net, amount of the rent being the basis of calculation.

Costs of making title.

The owner of the head rent is entitled to his costs of making title, and of drawing the money out of Court (see note in MacCarthy's "Leading Cases," p. 62). He is also entitled to be paid the head rent up to the completion of the purchase. *Hargreave's Estate*, 30 I. L. T. R. 24. Order XX., Rule 16 of the Rules of March 1897 (*post* p. 390), provides that the title to a superior interest shall be made by affidavit prepared in accordance with the directions in the appendix thereto.

Redemption price of lay tithes.

Prior to the decision in *re Kemmis', Porter and Sandford Estates* (38 I. L. T. R. 209) the redemption price of lay impropriate tithe rent-charges was (in the absence of special circumstances) fixed at twenty years purchase of the net rent, less the average poor rate for the preceding five years: *Hanrahan's Estate*, 22 I. L. T. R. 26; *Watson's Estate*, 23 I. L. T. R. 87; *Lord Fermoy's Estate*, 33 I. L. T. R. 13; *Earl of Portarlington's Estate*, 33

* See Addenda.

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I. L. T. R. 64; *Fitzgerald's Estate* [1902], 1 I. R. 444; *Bateman's Estate*, 4 N. I. J. R. 137; but in *Warren's Estate* (27 I. L. T. R. 119), Commissioner LYNCH allowed less than twenty years purchase of a lay tithe, it appearing that an order had been made, shortly before the application to redeem, by which the tithe had been reduced by 40 per cent., but that this order had on a technical point been set aside. In *re Kemmis', Porter and Sandford Estates* (38 I. L. T. R. 209) (decided subsequently to the decision in *Leader's Estate, ante* p.140), MEREDITH, J., fixed the price of a number of impropriate tithe rent-charges at twenty-two years purchase. In *Kemmis' Estate* (also reported at [1904] 1 I. R. 497) an appeal was taken, when the Court of Appeal referred the case back to MEREDITH, J., for reconsideration of the amount of the redemption price, it not appearing from his judgment whether he had taken the element of compulsion into consideration, and why he thought that the price of a lay tithe should be fixed at a lower sum than that of an ecclesiastical tithe.

The following principles were laid down by the members of the Court: In fixing the redemption price of a lay tithe rent-charge the Court must consider (1) The value of ecclesiastical tithe rent-charges, and (2) The fact that the redemption is compulsory—a real injury being inflicted on the tithe owner, especially when his rent-charges are redeemed in small portions. —*Per* PALLES, L. C. B. The judgment of FITZGIBBON, L. J., also lays down the following principles. Justice demands liberal dealing with a seller, whose property is taken from him against his will, but the 10 per cent. allowance of professional valuers is open to all the objections of the "working rule" by which the Land Commission formerly fixed the price of all lay tithes at twenty years purchase. The fact that the owner of a small but regularly paid income is compelled to take instead of it a broken sum of cash, which is hardly worth the trouble of investing, may make it fair to give him a larger proportionate allowance than that which would be sufficient where a larger sum is paid over. The relative amounts of the tithe and of the rental, and the number of years purchase which the landlord received as the price of his interest should also be taken into account in fixing the redemption price of the superior interest. It is not easy to see that a landlord selling his estate should make a profit by compulsorily redeeming a superior interest at a number of years purchase less than that voluntarily paid to him for his own interest.—*Kemmis' Estate* [1904], 1 I. R. 496. (See, however, the qualification of this latter proposition contained in the judgment in the further appeal in the same case *infra*.) When the matter came before MEREDITH, J., for reconsideration he fixed the price at a little over twenty-three years purchase. The tithe was £14, 9s. 6d. charged on 777 ac. 5 rds. 3 ps. Tenement valuation, £447, 10s. Rental, £483, 1s. 10d. Redemption price, £335. In giving judgment MEREDITH, J., laid down that each case must depend on its own facts, and that no general rule as to the number of years purchase to be given can be adopted. He also pointed out that he did not, as the Court of Appeal appeared to think, fix the price of ecclesiastical tithes—the price of such tithes being regulated by a Treasury order. *Kemmis' Estate* (No. 3), 38 I. L. T. R. 255.

Against this decision a further appeal was taken, but the Court of Appeal refused to interfere with the decision of the Court below—holding that it should not do so unless satisfied that an error had been made on some matter of principle beyond the question of mere amount. FITZGIBBON, L. J., in delivering judgment said that the Court refused to lay down the principle that under no circumstances could a tithe be redeemed at a less number of years purchase than the tenants had given for their rents, *Kemmis' Estate* (No. 2), 39 I. L. T. R. 9.

In *Maunsell's Estate*, MacC. 103, the facts were as follows: A tithe

rent-charge payable out of the lands for sale was held by the owner thereof under a lease. The rent reserved by the lease and the reversion expectant thereon were vested in the Land Commission. *Held* that the tithe rent-charge was "payable to the Land Commission" within the meaning of Section 15 (3) of the Act of 1887, and that the consent of the Treasury was necessary to an order for its redemption.

Tithe owner's costs.

The owner of an impropriate tithe rent-charge which has been ordered to be redeemed is entitled to the costs of making title thereto, and of applying for payment out of the purchase money, *Leconfield's Estate*, MacC. 63, 25 I. L. T. R. 28.

Power of L. C. to order redemption.

The powers vested in the Land Commission of ordering the compulsory redemption of superior interests depend upon a number of different Sections.

Section 10 of the Act of 1885 provides that "in every case in which a holding is sold by the Land Commission to a tenant or other person; also in every case in which a holding is sold by a landlord to a tenant, and it is agreed that such sale shall be carried into effect by a vesting order of the Land Commission, the Land Commission shall have the jurisdiction and powers which are vested in the Land Judges of the Chancery Division of the High Court by the following Sections of the Landed Estates Court Act, and those Sections shall be incorporated with this Act, as if the Land Commission were therein referred to, and as if the purposes of those Sections included the purposes of this Act, that is to say . . . Section sixty-eight . . . relating to Crown rent, and quit rent, and incumbrances and charges."

Section 68 of the Landed Estates Court Act provides that:—

Crown and quit rents.

Drainage and land improvement charges.

A. The Court may sell any land, or part thereof, discharged from any Crown rent or quit rent which it may be enabled, and may, with the consent of the owner, think fit to purchase, or from any charge made by virtue of the Acts 5 & 6 Vict. c. 89 and 10 & 11 Vict. c. 32, or either of them, which it may with such consent think fit to pay off or redeem. (*N.B.*—The charges created by the above Acts are drainage and land improvement charges.)

Crown reversions.

B. The Court may, where it shall think fit, purchase, with the consent of the Commissioners of Woods, any estate or interest of the Crown in remainder or reversion, in the whole or any part of the lands for sale.

Annual and other charges.

C. The Court may pay to any person entitled to any annual or other charge (not being an incumbrance according to the definition in the Landed Estates Court Act) who may consent to accept the same, a gross sum in discharge or by way of redemption thereof or of a part thereof. (*N.B.*—The definition of incumbrance in the Landed Estates Court Act is precisely similar to the definition in Section 34 of the Act of 1887; see note (*h*) to Section 7, *ante* p. 26.)

Investments to meet charges.

D. The Court may, where it shall think fit, invest or provide for the investment of money to meet any annual or periodical charge, or any other charge, incumbrance, or interest, where, by reason of such charge, incumbrance, or interest being contingent or otherwise it shall appear to the Court expedient so to do. For full text of this Section, see Appendix B, *post* p. 173.

Crown Lands Act, 1894.

Section 12 of the Crown Lands Act, 1894, extends the powers conferred by Section 68 to any quit rent or other perpetual rent payable to the Crown in respect of land in Ireland, and provides that such powers may be exercised whether the land liable to payment of the rent is being sold by the High Court or not.

Crown and quit rents and tithe rent-charges.

Section 15 (2) and (3) of the Act of 1887 provides that the Land Commission may, if they think it expedient, order the redemption of any Crown rent, quit rent, or tithe rent-charge, or any apportioned part thereof, at a price to be fixed by the Land Commission. They may also, if they think it expedient, order the redemption of any land improvement charge, or

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Land improvement and drainage charges.

drainage charge, or apportioned part thereof, in accordance with the scale fixed by the Statutes in that behalf; but no redemption of quit or Crown rents is to be made without the consent of the Commissioners of Woods, or of land improvement charges, drainage charges, or tithe rent-charges payable to the Land Commission, without the consent of the Treasury. For full text of this Section, see Appendix B, *post* p. 204.

Annuities, rent-charges, and rents.

Section 16 (3) of the Act of 1887 provides that the Land Commission shall, on the application of the person entitled to a part of an annuity, rent-charge, or rent, which part shall have been apportioned by them upon land sold, and may, if they think it expedient, without such application, order the redemption of such annuity, rent-charge, or rent, or of an apportioned part thereof, and may, notwithstanding the fact that no apportionment has been made, order the redemption of any annuity, rent-charge, or rent affecting land sold, at a price to be fixed by agreement between the parties, or to be determined by the Land Commission on consent of the parties, or if they do not consent, then to be settled by arbitration. For full text of this Section, see Appendix B, *post* p. 205. This Section is partially repealed by the Schedule to the Act of 1903, and, as explained above (*ante* p. 139), if the parties do not agree upon a price, the price is fixed by the Court, instead of being arrived at by arbitration.*

Superior rents.

Section 20 of the Act of 1891 provides that where any tithe rent-charge, annuity, rent-charge, or rent, or any apportioned part thereof, is ordered to be redeemed pursuant to the provisions of the Act of 1887, the Land Commission shall have the same powers in respect of the redemption money thereof as are contained in Section 14 (1) of that Act, and the provisions of Section 16 of the said Act shall apply to any superior rent affecting such tithe rent-charge or rent, or to any fee farm grant or lease reserving the same.

Section 14 (1) of the Act of 1887 authorises the Land Commission to pay the purchase money of any holding in respect of which they have agreed to make an advance into the Bank of Ireland, and by order to declare that the claims of all persons shall attach to the purchase money and cease to be of validity as against the land.

Superior interests.

Section 31 (3) of the Act of 1896 provides that the powers of apportionment and redemption given to the Land Commission by Section 10 of the Act of 1885, and Sections 15 and 16 of the Act of 1887, shall extend to superior interests and be exercised in such manner as shall appear equitable, and shall not be limited to an apportionment between the land sold and the residue of the land subject to the superior interest.

Superior interests of no value.

Section 31 (5) of the Act of 1896 provides that the redemption price of a superior interest is to be determined in the manner provided by Section 16 (3) of the Act of 1887 for the redemption of annuities, rent-charges, and rents, but that where such superior interest is of no value the purchase money of the land may be distributed without having regard thereto. For full text of Section 31, see Appendix B, *post* p. 214.

Powers of redemption apply to purchase money.

Section 33 (1) of the Act of 1896 provides that for the purpose of the distribution of, or other dealing with, an advance, Sections 15 and 16 of the Act of 1887, and any other unrepealed enactment in the Land Purchase Acts, or in the Act of 1896, relating to the redemption or apportionment of charges on holdings, or otherwise to the distribution of the purchase money of a holding, shall apply as if the money were the holding.

Sub-section (2) of the same Section provides that the Court may determine the parties by whom the agreement fixing the redemption price is to be made.

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* See Addenda.

Sub-section 3 of the same Section provides that Sections 15 and 16 of the Act of 1887, as amended by Section 33 of the Act of 1896, shall apply to any contingent liability for any annuity, rent-charge, or rent, in like manner as they apply to the annuity, rent-charge, or rent itself, and where any contingent liability has no appreciable value, the money may be distributed without regard to such liability. For full text of Section 33, see Appendix B, *post* p. 216.

Contingent annuities, rent-charges, and rents.

Section 24 (6) of the Act of 1903 provides that for the purpose of the distribution of the purchase money, the Land Commission may ascertain in the prescribed manner the amount or value of any claim thereon.

Powers under Act 1903.

Section 24 (10) of the same Act provides that the Land Commission may for the purpose of facilitating the completion of sales, including the distribution of the purchase money, exercise all the powers in that behalf conferred on them by the Land Purchase Acts in the case of sales from landlords to tenants. PALLES, C. B., laid down that there are *not* two separate jurisdictions to make orders for redemption—one conferred by Section 15 of the Act of 1887—the other by Section 24 of the Act of 1903, but one inseverable jurisdiction conferred by the several enactments construed together. *Kemmis' Estate* (No. 2), 38 I. L. T. R. 241.

In *Rotheram's Estate* (38 I. L. T. R. 63) the lands for sale were held under a lease for lives renewable for ever made in the year 1818. The last of the lives dropped in 1887, but the lease was neither renewed nor converted into a fee farm grant. It appeared that the lessor had been unable at the time of the lease to give possession to the lessee, and that he had, by way of compensation, granted an annuity to the lessee in excess of the rent reserved by the lease. The annuity terminated in 1827, but from that date no rent had been paid, although the lessor's attention was called to the matter in the year 1889. ROSS, J., held that he must assume an arrangement between the parties, and accordingly inferred that the lands were held in fee simple discharged from all covenants in the lease.

Effect of non-payment of rent for long period.

The old method of dealing with indemnities and the new procedure substituted therefor are explained in the notes to Section 62, *ante* p. 133.

Where indemnities exist.

As to the powers of redemption exercisable by the Land Judge, see notes to Section 7, *ante* p. 29.

Powers of L. J.

As to the redemption of intervening interests, see Section 15 (2), *ante* p. 47.

Intervening interests.

As to the redemption price of superior interests not exceeding a certain amount, see Section 63, *ante* p. 137.*

Superior interests of small amount.

(*a*) **Prescribed time.**—See Order VIII., Rule 4 of Rules of 4th December 1903 (*post* p. 527) as to proceedings in Land Commission; and see Land Judges Rules of 13th February 1905 (*post* p. 554) as to proceedings in Land Judges Court.

65. Where the Land Commission have put up for sale by public auction a holding which they are entitled to cause to be sold, and the holding has not been sold, the Commission may issue an order to the sheriff to put any person nominated by them in possession of the holding, and the order shall be executed by the sheriff in like manner as a writ for the delivery of possession.

Power to Land Commission to obtain possession of holding.

As to the power of the Land Commission to cause holdings to be sold, see note (*m*) to Section 54, *ante* p. 119.

As to the practice under this Section, see Order XIV. of the Rules of 4th December 1903, *post* p. 533.

* See Addenda.

PART I.

Sects. 66–67.

Fire insurance on buildings on land sold under Land Purchase Acts.

66.—(1) Where the Estates Commissioners or the Congested Districts Board have erected or improved any buildings (*a*) on any land in respect of which an advance is made under the Land Purchase Acts the Land Commission may if they think fit insure the buildings against loss or damage by fire and may keep the same insured until the advance has been repaid.

(2) The Land Commission shall pay the premiums on any policy of insurance effected in pursuance of this Section, and those premiums shall be a charge on the land purchased and the amount of each such premium shall be collected by the Commission from the purchaser of the land and shall be recoverable in like manner as a purchase annuity.

(*a*) **Erected or improved any buildings.**—As to the powers of the Estates Commissioners to erect or improve buildings, see Section 12 and the notes thereto, *ante* p. 34.

Amendment of 59 & 60 Vict. c. 47, s. 38 (3) with respect to apportionment of annuity and guarantee deposit.

67.—(1) The powers for the apportionment of an annuity, or the discharge of portion of a holding from liability in respect of an annuity, conferred by Sub-section three of Section thirty-eight of the Act of 1896, (*a*) may be exercised where the holding was sold or subdivided before the passing of the Act of 1896.

(2) Where the Land Commission exercise the power of apportionment conferred by the said Sub-section three, either as amended or not, they may apportion in the same proportions the guarantee deposit (if any) retained to secure the repayment of the advance, and such last-mentioned apportionment may be made without the consent of the owner of the guarantee deposit (*b*).

(3) Where any land upon which portion of a purchase annuity has been charged by the Land Commission is conveyed to the proprietor of a holding subject to a purchase annuity, that holding and the land so conveyed shall be deemed one holding, and the said annuity and portion shall be payable in such manner and subject to such conditions as may be prescribed.

Power of L. C. to apportion annuity and to release from annuity.

(*a*) **Sub-section three of Section thirty-eight of the Act of 1896** is as follows: "Where a holding is subject to the future payment of an annuity, and the Land Commission sell it in lots, or in the exercise of their powers under the Land Purchase Acts authorise the subdivision of the holding, the Land Commission may apportion the annuity in such manner as they deem expedient, or may, if they think fit, make an order discharging any such portion of the holding as aforesaid from any further liability for such annuity, or any part thereof, or any arrears thereof."

This Sub-section apparently only applied where the sale or subdivision was made subsequently to the passing of the Act of 1896. The Section

now being noted makes it applicable to sales and subdivisions prior to that date.

(*b*) Prior to the Act of 1903, where a holding was subdivided, the Land Commission were in the habit of apportioning the guarantee deposit, provided that the owner thereof consented, but not otherwise. As to guarantee deposits generally, see notes to Section 11, *ante* p. 33, and notes to Section 68, *infra*.

Apportionment of guarantee deposits.

68.—(1) Sub-section two of Section twenty-nine of the Act of 1896 (*a*) (which enables the Land Commission to pay the person entitled thereto the whole or any part of a guarantee deposit) shall apply to any such deposit made or retained in respect of advances under any of the Land Purchase Acts.

Extension of 59 & 60 Vict. c. 47, s. 29 (2) to guarantee deposits under any of Land Purchase Acts.

(2) Sub-section three of the said Section twenty-nine (*b*) is hereby repealed.

(*a*) **Sub-section two of Section twenty-nine of the Act of 1896** is as follows: "The Land Commission may, if they think fit, on application, pay to the person entitled thereto the whole or any part of the guarantee deposit made or retained in respect of advances under the Purchase of Land (Ireland) Act, 1891, or the Redemption of Rent (Ireland) Act, 1891, except in a case where any part of the deposit has been actually applied in pursuance of the Land Purchase Acts."

Release of guarantee deposits.

(*b*) **Sub-section three of the said Section twenty-nine** provided that, in the case of advances made under the other provisions of the Land Purchase Acts, a portion of the guarantee deposit, equal to the amount of the advance repaid at the end of any decade, might be released. Sub-section two of the said Section 29 having been extended by the Section now being noted to guarantee deposits retained in respect of advances made under any of the Land Purchase Acts, Sub-section three is no longer necessary, and is therefore repealed.

As to guarantee deposits generally, see notes to Section 11, *ante* p. 33. As to apportionment of guarantee deposits, see Section 67, *ante* p. 146.

69.—(1) Where an advance under the Land Purchase Acts has been made for the purchase of any land an order of the Land Commission charging the land shall be valid and effectual notwithstanding that the applicant for the advance may have died.

Provisions in case of death, &c., of applicant for an advance.

(2) Where the applicant for the advance has died, and there is no legal personal representative of such applicant, or no legal personal representative whose services are available for the sale under the Land Purchase Acts, the Land Commission may, on such terms and conditions (if any) as they may think fit, appoint any proper person to be administrator of the deceased applicant limited to the purposes of that sale, and such limited administrator shall, for those purposes, represent the deceased applicant in the same manner as if the applicant had died intestate and administration had been duly granted to such limited administrator of all the personal estate and effects of the deceased applicant (*a*).

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Sects. 69–71.

54 & 55 Vict. c. 66.

(3) General rules under Sub-section two of Section twenty-three of the Local Registration of Title (Ireland) Act, 1891, shall provide for the registration of the owner of the land in any case to which this Section applies (*b*).

Power of L. C. to appoint administrators.

(*a*) As to the power of the Land Commission to appoint administrators in connection with proceedings under the Land Acts, see note (*c*) to Section 2, *ante* p. 10.

Practice.

As to the procedure under this Sub-section, see Order XVIII. of the Rules of 4th December 1903, *post* p. 535.

(*b*) No Rules have been made under this Section up to the time of writing (January 1905); nor is there, it is believed, any intention of making such Rules.

Removal of restraints on alienation.

70. For the purposes of a sale under the Land Purchase Acts, all covenants, agreements, and conditions in any lease or fee farm grant prohibiting, restraining, or tending to restrain the alienation of any land held thereunder, shall be deemed to be wholly void and inoperative, and so much of Section thirty-three of the Landlord and Tenant (Ireland) Act, 1870, (*a*) and Section twenty-nine of the Act of 1881 (*b*) as requires the waiver or determination of such prohibition is hereby repealed.

33 & 34 Vict. c. 46.

The insertion of this Section was to a great extent due to the decision in *M'Naul's Estate* [1902], 1 I. R. 114 (overruling *Billing* v. *Welch* (I. R. 6 C. L. 88)), by which it was held that a covenant in a fee farm grant made under the Renewable Leasehold Conversion Act, to pay an additional rent if the grantee, his heirs or assigns, should alien the lands, without consent, to a person other than the child or grandchild of the person so aliening the same, was valid; and that regard must be had to it in fixing the redemption price of the fee farm rent. See also *M'Naul's Estate* [1903], 1 I. R. 250, where MEREDITH, J., held that the additional rent became payable on the execution of the vesting order, and that therefore the entire additional rent, and not merely the prospective liability thereto, should be redeemed.

(*a*) **Section thirty-three of the Landlord and Tenant (Ireland) Act, 1870,** provided that, "No sale shall be made under this part of this Act by a landlord being the owner of a leasehold under a lease containing a prohibition against alienation unless such prohibition has determined or is waived." This portion of the said Section 33 is repealed by the Section now being noted.

(*b*) **Section twenty-nine of the Act of 1881** provided that "this part of this Act shall not empower the owner of a leasehold holding under a lease containing a prohibition against alienation to sell such leasehold unless such prohibition is determined or is waived." This portion of the said Section 29 is repealed by the Section now being noted.

Questions of law.

71. The determination of any question of law arising under the Land Purchase Acts may, on the application of any person interested, or without such application with the consent of the Lord Chancellor,

be transferred by the Judicial Commissioner, if he thinks fit, in such manner as Rules under the Judicature (Ireland) Acts, 1877 to 1897, (*a*) may direct, from the Land Commission to any Division or Judge of the High Court, and any such determination shall have the effect of and be subject to the same right of appeal as a final order of the High Court.

(*a*) See Order LIV., C, of The Rules of the Supreme Court (Ireland), 1905, *post* p. 352.

PART II.

CONGESTED DISTRICTS.

Advances to Congested Districts Board.

72.—(1) The sums required by the Congested Districts Board for advances for the purchase of land shall be paid to them out of advances made by the National Debt Commissioners to the Land Commission under this Act, and all payments so made shall be deemed to be advances made to the Land Commission for the purposes of the Land Purchase Acts, and shall be treated accordingly.

(2) Until the Congested Districts Board have disposed of the land so purchased by them to purchasers under the Land Purchase Acts, interest shall be paid by the Board to the Land Commission at the rate of two and three-quarters per cent. per annum on all sums so advanced, and for the time being outstanding, in such amounts and at such times as may be prescribed: Provided that if after the expiration of five years any land so purchased has not been disposed of, payments on account of sinking fund, at the rate of ten shillings per cent. per annum, shall be made by the Board to the Commission. All such interest and sinking fund payments shall be a charge on and paid out of the annual income of the Board.

(3) Regulations made by the Treasury may provide that where the Congested Districts Board have expended money on the improvement of an estate, and in consequence have sold parcels of that estate at an enhanced price to tenants or others, the National Debt Commissioners may advance to the Land Commission, for repayment to the Congested Districts Board, such sums as represent the increase of price consequent on the improvements.

As to Guarantee Fund in a congested districts county.

73. For the purposes of the Guarantee Fund a congested districts county shall cease to be separated from the county in which it is geographically situate, and the local grants, under the accounts headed "Model Schools and National Schools," shall form part of

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Sects. 73–77.

the contingent portion of that fund throughout the whole administrative county, and the interest on the Church Surplus Grant shall cease to form part of that fund in any electoral division of the county.

Limit as to untenanted land vested in Board.

74. There shall not be at any time vested in the trustees of the Congested Districts Board untenanted lands exceeding in the aggregate, according to the estimate of the Land Commission as approved by the Treasury, the capital value of thirty times the interest on the Church Surplus Grant.

Sales by Congested Districts Board to certain tenants.

75.—(1) Where the Congested Districts Board purchase land for the benefit of a congested districts county, they may sell under the Land Purchase Acts any parcels thereof, which are not required for tenants of holdings in that county, to any tenants or proprietors of holdings, not exceeding five pounds in rateable value, on an estate adjacent to or in the neighbourhood of that land, or to any sons of such tenants.

(2) The provisions of this Act with respect to the application of the Land Purchase Acts to parcels of land shall apply in the case of the sale of any such parcel.

Limit of advance in case of vendor re-purchasing.

76.—(1) Where a parcel of an estate purchased by the Congested Districts Board is resold to the vendor or to the trustees of a settlement, an advance under the Land Purchase Acts may be made to him, not exceeding in any case one-third of the purchase money of the estate, or twenty thousand pounds, whichever is the less.

(2) Sub-section four and Sub-section six of Section three of this Act shall apply in the case of any land in respect of which an advance is made in pursuance of this Section.

Estates in Court of Land Judge and amendment of law as to registration of land purchased by Board.

77.—(1) For the purpose of the purchase by the Congested Districts Board of an estate from the Land Judge, the provisions of this Act with respect to the powers and duties of the Land Judge in relation to an offer of the Land Commission, shall apply with the substitution of the Congested Districts Board for the Land Commission.

(2) An order of the Land Judge declaring the Congested Districts Board to be purchasers of any land shall have the effect of a conveyance made by him, and shall also vest in the Board the right to collect and recover any arrears of rent specified in the order, and a certified copy of the order shall be transmitted to the register-

ing authority under the Local Registration of Title (Ireland) Act, 1891, and the trustees of the Board shall thereupon be registered under that Act as the absolute owners of the land.

When an offer is made by the Congested Districts Board under this Section, the provisions of Section 40 of the Act of 1896 are suspended. *D. J. Burke's Estate*, 38 I. L. T. R. 198. See also Section 1 of the Congested Districts Board (Ireland) Act, 1899, which does not appear to have been referred to in that case.*

Regulations as to turbary on estates purchased by Board.

78. The Congested Districts Board shall have, in the case of an estate purchased by them, all the powers with respect to regulations authorising the cutting or making of turf on holdings, conferred on the Land Commission by the provisions in that behalf of Part One of this Act, and those provisions shall apply accordingly with the substitution of the Congested Districts Board for the Land Commission.

Purchase of land by Board.

79.—(1) The Congested Districts Board may enter into agreements for the purchase of land from any person who may be certified by the Estates Commissioners to be a person who may be dealt with as the owner of the land in accordance with the provisions of Part One of this Act or otherwise, and those Commissioners shall, in such manner as may be prescribed by rules to be made by the Lord Lieutenant, prepare all such agreements and make orders consequential thereon vesting land in the trustees of the Congested Districts Board.†

(2) Where a vesting order is made in pursuance of this Section the purchase money shall be distributed by the Land Commission in like manner as if it were the purchase money of land vested in the Commission, and all the Provisions of Part One of this Act with respect to the distribution of the purchase money of land so vested shall apply accordingly.*

As to the practice under this Section, see Order V. of Rules of 4th December 1903 (*post* p. 524), also Order IX., Rules 3 and 12 of same Rules (*post* pp. 528 and 531).

Provisions with respect to sanction of advances.

80. Where an application is made to the Land Commission for an advance under the Land Purchase Acts to a person purchasing any land from the Congested Districts Board, and that Board certify that the land is in their opinion sufficient security for the repayment of the advance, the Land Commission shall sanction the advance.

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* See Addenda.

† Rules were made under this Section on 25th March 1904, *post* p. 326.

PARTS II.–III.

Sects. 81–86.

Irrecoverable arrears of annuities to be paid out of interest on Church Surplus Grant.

81. If at any time the arrears of any purchase annuity payable in respect of an advance, sanctioned in pursuance of a certificate of the Congested Districts Board, are declared by the Land Commission to be irrecoverable, that Board shall pay, out of the interest on the Church Surplus Grant, to the Land Purchase Account, the amount of those arrears.

Amendment of 1 Edw. 7, c. 34 as to request by tenants, and order respecting charges, &c.

82.—(1) The Congested Districts Board may exercise the powers conferred on them by Section one of the Congested Districts Board (Ireland) Act, 1901, on a request made by not less than three-fourths in number and rateable value of the tenants of holdings situate on any townlands which would be affected by the exercise of those powers in the event of the request being acceded to.

(2) The provisions of the said Section one as to an order of the county court respecting charges, liabilities, and equities affecting a tenant's interest in a holding shall apply where, with the consent of a tenant, the area of his holding is altered, or he is put into possession of a new holding, by the Congested Districts Board.*

Resumption of holdings by Congested Districts Board.

83. The resumption of a holding during the continuance of a statutory term by the Congested Districts Board may be authorised under Sub-section six of Section five of the Act of 1881 for the purposes of migration or the enlargement of holdings, in addition to the purposes specified in that Sub-section.†

Under-Secretary to be member of Board.

84. The Under-Secretary to the Lord Lieutenant shall be *ex-officio* a member of the Congested Districts Board in lieu of the member of the Land Commission nominated under Sub-section one of Section thirty-four of the Act of 1891.

Repeal of 62 & 63 Vict. c. 50, s. 18.

85. Section eighteen of the Agriculture and Technical Instruction (Ireland) Act, 1899, which makes provision with respect to congested districts counties, is hereby repealed.

PART III.

LAND LAW.

As to Land Commissioners.

86.—(1) The Lord Chancellor may nominate any Judge of the High Court, other than the Lord Chief Justice and the Master of the Rolls, to act, for the time specified by him, as an additional Judicial Commissioner of the Land Commission for the purpose

* See Sect. 1 of Congested Districts Board Act, 1901, *post* p. 221, and see Congested Districts Board Rules of 24th February 1902, *post* p. 310.

† See Sect. 2 of Congested Districts Board Act, 1901, *post* p. 223.

of hearing appeals under the Land Law Acts, and the Judge so nominated shall, during that time, have the same jurisdiction as the Judicial Commissioner appointed under the Act of 1881.

(2) A Judge of the High Court appointed before the first day of January one thousand nine hundred and two shall not without his own consent be nominated under this section.

(3) The Honourable Gerald FitzGerald, one of the Land Commissioners, shall, for the purposes of the Land Law Acts and Land Purchase Acts, but not further or otherwise, in addition to his existing powers, have all the jurisdiction and powers of a Judicial Commissioner, with the same rank and tenure of office as if he had, at the commencement of this Act, been appointed a Judicial Commissioner under the Act of 1881, and shall be entitled to a superannuation allowance calculated on a salary of two thousand five hundred pounds and otherwise in accordance with the provisions of the Superannuation Acts, 1834 to 1892.

(4) The Right Honourable Frederick Stringer Wrench shall, if he is nominated as an Estates Commissioner, be paid, in addition to his present salary, a salary of five hundred pounds out of money provided by Parliament.

(5) Murrough O'Brien, esquire, one of the Land Commissioners, and the two Estates Commissioners appointed by His Majesty, shall be entitled to superannuation allowances in accordance with the provisions of the Superannuation Acts, 1834 to 1892.

Constitution of sub-commission.

87. A sub-commission shall, for the purpose of hearing any application under the Land Law Acts, consist of one legal assistant commissioner and one lay assistant commissioner.

Appeals under Land Law Acts.

88.—(1) Any person aggrieved by any order made, under the Land Law Acts, by one Commissioner, not being a Judicial Commissioner, or by a sub-commission, may apply for a re-hearing to the Land Commission, and that Commission may confirm, modify, or reverse such order.

(2) All appeals under Section forty-seven of the Act of 1881 or re-hearings under this Section, and all re-hearings in pursuance of requisitions under Section forty-four of the Act of 1881, shall be heard and determined by one Judicial Commissioner, with the assistance of one specially qualified lay assessor, who shall hear the evidence and, on the application of either of the parties, inspect the holding, and report thereon to the Judicial Commissioner in the prescribed manner.

(3) On the hearing of any appeal, or on any re-hearing notice

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Sects. 88–90.

of which is lodged after the commencement of this Act, evidence which could have been, but was not, produced in the Court below, shall be admitted on special grounds only, and not without special leave of the Judicial Commissioner who hears the appeal or re-hearing.

(4) In the case of any appeal or re-hearing where an issue of fact is raised which was raised before the Court below, and the Judicial Commissioner who hears the appeal or re-hearing is satisfied that the appellant did not produce before that Court material evidence on that issue which was in his possession or within his procurement, he may order the appellant to pay the whole, or such portion as he may think fit, of the costs of the appeal or re-hearing.

(5) Rules under Section fifty of the Act of 1881 may be made by the Judicial Commissioners with the approval of the Lord Chancellor with respect to the proceedings under this Section in appeals and re-hearings, and those rules shall among other things provide for an ad valorem scale of fees to be paid on notices of appeal or re-hearing (*a*).

(*a*) Rules under this Section were issued on 23rd April 1904, and will be found at p. 338, *post*.

Orders for framing lists of assessors.

89. General orders may be made by the Judicial Commissioners, with the approval of the Lord Lieutenant and the Treasury, for the framing of lists of persons of skill and experience in agriculture to act as assessors under this Part of this Act, and for the ascertainment of their functions and remuneration, and every person for the time being named in any such list shall give his attendance according to general orders.*

Variable head rents.

90. Where, by reason solely of the non-publication of the average prices of produce in the Dublin Gazette, it has become impossible, in the absence of other provision, to determine the amount by which any variable rent, calculable upon an average of prices, should be varied, Sections two and three of the Tithe Rent-charge (Ireland) Act, 1900, shall apply as from the commencement of this Act in the case of such variable rents, and the words "tithe rent-charge," in the said Sections, shall be deemed to include any variable rent as aforesaid.

63 & 64 Vict. c. 58.

Rents variable in accordance with price of corn.

Prior to the Tithe Rent-charge Act, 1900, tithe rent-charges and certain other variable rents were liable to be increased or diminished by the Courts of Quarter Sessions in accordance with the rise and fall in the price of corn as published in the Dublin Gazette. On the 1st of September 1887 the

* See General Orders of 7th November 1903, *post* p. 321.

Dublin Gazette altered the method in which they published the prices of corn, but it was considered that the figures which they continued to give were sufficient to base the calculation necessary for the variation of tithes and variable rents. In the year 1898, however, this view of the matter was challenged in the case of *R.* (*Metge*) v. *The Justices of Meath* [1898], 2 I. R. 592, 624, when the Court of Appeal decided that in consequence of the Dublin Gazette having failed since 1st September 1887 to publish the true average prices of corn, the Courts of Quarter Sessions had no jurisdiction to vary tithe rent-charges. The principles laid down in this case were of course equally applicable to variable head rents.

Failure of Dublin Gazette to publish prices.

To meet the difficulty which had thus arisen the Tithe Rent-charge Act, 1900, was passed. By Section 2 of that Act the Land Commission are directed—

Provisions of Tithe Rent-charge Act, 1900.

(1) To ascertain, for each county in Ireland, by what average percentage the rents which have been fixed in that county for a first statutory term during a period of fifteen years ending in the year 1900 have been varied.

(2) To ascertain for each county, in respect of every subsequent period of fifteen years, the average percentage of variation in judicial rents payable during a second or subsequent statutory term, as compared with the judicial rents payable during the preceding statutory term.

(3) To publish a certificate giving such particulars in the Dublin Gazette.

Section 3 provided—

(1) That during the period of fifteen years, dating from 1st November 1900, every tithe rent-charge should be deemed to be varied from the amount at which it stood on 22nd August 1884, by a sum equivalent to the average percentage ascertained by the Land Commission as aforesaid in respect of the county out of which the tithe is payable.

(2) That during the second and every subsequent period of fifteen years every tithe rent-charge should be deemed to be varied from the amount at which it stood immediately before the commencement of such period by a sum equivalent to the average percentage ascertained by the Land Commission in respect of the second and every subsequent period of fifteen years mentioned in Section 2.

(3) That after the passing of the Act no tithe should be varied except in accordance with the provisions of the Act.

The text of Sections 2 and 3 will be found in Appendix B, *post* pp. 220, 221.

The Tithe Rent-charge Act, 1900, did not apply to variable rents, and no means of dealing with such rents existed until the passing of the Section now being noted. By virtue of it, these variable rents can now be varied in the same way as tithes.

Tithe Rent-charge Act did not apply to rents.

The Land Commission published in the Dublin Gazette of 26th October 1900 the following Table, showing the variation in rents fixed for a first statutory term:—

Table of reduction in rents.

PROVINCE OF ULSTER.

Name of County.	*Reduction.*	*Name of County.*	*Reduction.*
Antrim	21·7	Fermanagh	20·0
Armagh	24·0	Londonderry	21·3
Cavan	22·0	Monaghan	24·4
Donegal	21·0	Tyrone	20·7
Down	21·1		

PART III.

Sect. 90.

PROVINCE OF LEINSTER.

Name of County.	*Reduction.*	*Name of County.*	*Reduction.*
Carlow	24·9	Louth	23·6
Dublin	22·0	Meath	19·7
Kildare	19·7	Queen's	23·7
Kilkenny	24·1	Westmeath	19·3
King's	20·6	Wexford	24·3
Longford	24·8	Wicklow	22·1

PROVINCE OF MUNSTER.

Name of County.	*Reduction.*	*Name of County.*	*Reduction.*
Clare	26·9	Limerick	25·9
Cork	25·0	Tipperary	23·4
Kerry	28·9	Waterford	27·4

PROVINCE OF CONNAUGHT.

Name of County.	*Reduction.*	*Name of County.*	*Reduction.*
Galway	25·0	Roscommon	23·4
Leitrim	25·4	Sligo	23·1
Mayo	19·1		

Date from which reduced rent runs.

The provisions of the Section now being noted were considered in *The Irish Land Commission* v. *Viscount Massereene and Ferrard* [1904], 2 I. R. 502, in which a case was stated for the opinion of the King's Bench Division. The questions for the opinion of the Court were :—

(1) Is the defendant entitled under the provisions of Section 90 to a variation in the quarterly gale of rent which fell due on 1st November 1903 ?

(2) If the defendant is not entitled to a variation in the gale falling due on 1st November 1903, what is the first gale in respect of which he will be so entitled ?

(3) For what period of time will the defendant be entitled to the variation effected under Section 90 as aforesaid ? Will it be twelve or fifteen years from the date of the passing of the Irish Land Act, 1903 ?

The Court answered the first question in the negative, holding that this gale was outside the benefit of the Act, which was not intended to apply retrospectively. The Court declined to answer the other questions, which were of a speculative character.

The Section now being noted is apparently only applicable to leases and grants in which the rent is variable, *solely in accordance with the prices published in the "Dublin Gazette."* If the lease or grant provides for an alternative method of varying the rent, then apparently the Section does not apply. If this be so, the Section is not applicable to leases and grants under the Trinity College Dublin Leasing and Perpetuity Act, 1851, as the rent reserved by such leases and grants is variable either in accordance with the Government returns of prices, or in accordance with prices to be ascertained by arbitrators appointed under the Act.*

* The writer's attention was drawn to this point by Mr. Gifford, solicitor, who had consulted counsel relative thereto.

91. In the construction of Sub-section three of Section five of the Act of 1896, the words "tenants in common" shall be deemed to include two or more persons between whom the holding is divided.

Subdivided holdings.

Sub-section (3) of Section 5 of the Act of 1896 provided that, "Where a holding is held by joint tenants or tenants in common, and such tenants have worked and occupied separate portions thereof, and the division of the holding was made prior to the passing of the Land Law (Ireland) Act, 1887, the Court, on the application of any joint tenant or tenant in common, may, if they think that it is just, fix a fair rent upon the portion of the holding so separately occupied. . . ."

It was decided in *Riversdale* v. *Gethins* [1899], 2 I. R. 81, that the words "joint tenants or tenants in common" must receive a strictly legal construction, and that the Sub-section did not apply where a holding had been subdivided between a number of tenants, who had not, and never had, any privity of estate, title, possession, occupation or interest.

The Section now being noted is no doubt intended to meet this decision.

It was decided by WADE, A. L. C., in *Campbell and Madden* v. *Lord O'Neill*, 38 I. L. T. R. 14, that where an originating notice to fix a fair rent was served prior to the passing of the Act of 1903, Section 91 of that Act should be given a retrospective operation, and Section 5 (3) of the Act of 1896 construed in the sense prescribed by the Act of 1903.

92. The period within which an address may be presented in respect of rules under Section fifty of the Act of 1881, or under that Section as amended by any enactment, shall be forty days instead of one hundred days.

Amendment of 44 & 45 Vict. c. 49, s. 50 (3) as to time within which address may be presented.

PART IV.

AMENDMENT OF LABOURERS (IRELAND) ACTS, 1883 TO 1896.

93. The expression "agricultural labourer" in the Labourers (Ireland) Acts, 1883 to 1896, and this Act shall include any person (other than a domestic or menial servant) working for hire in a rural district whose average wages, in the year preceding the lodgment of any representation under the Labourers (Ireland) Acts, 1883 to 1896, affecting him, do not exceed two shillings and sixpence a day, and who is not in occupation of land exceeding one quarter of an acre.

Extension of Acts to agricultural workers.

94. Before a sanitary authority provide in any improvement scheme for the erection of new buildings in any locality, other than that suggested by the persons who signed the representation in pursuance of which the scheme is framed, they shall take into consideration the wishes of those persons as specified in the representation.

Locality suggested by signatories of representation to be taken into consideration.

PARTS IV.-V.

Sects. 95–98.

Compensation to agricultural labourers for wrongful dismissal in certain cases.

95. Where any agricultural labourer has made, or concurred in the making of, a representation under the Labourers (Ireland) Acts, 1883 to 1896, and within twelve months thereafter is dismissed from his employment, he may apply to the county court judge for compensation, on the ground that he has been dismissed by reason of his having made, or concurred in making, the representation, and, if in the opinion of the county court judge he was dismissed for the reason aforesaid, the county court judge may award him compensation not exceeding three months' wages.

Scheme under Labourers Acts to be framed by Land Commission.

96.—(1) Where the Land Commission have purchased an estate, or where application is made to the Commission to sanction advances for the purchase of holdings comprised in an estate, they shall make inquiry as to whether accommodation is needed for labourers on the estate, and, if of opinion that such accommodation is needed, they shall frame a scheme providing therefor.

(2) Every such scheme shall be forwarded to the Local Government Board for Ireland and the council of the rural district in which the land comprised in the scheme is situate, and shall be deemed a representation made to the council under the Labourers (Ireland) Acts, 1883 to 1896, and those Acts shall apply accordingly.

Representation under Labourers Acts.

97. A representation under the Labourers (Ireland) Acts, 1883 to 1896, shall mean a representation signed by not less than six persons, each one of whom is either rated for the relief of the poor within the sanitary district or is included in the definition of an agricultural labourer contained in the said Acts as amended by this Act.

PART V.

SUPPLEMENTAL.

Definitions.

98. In this Act, unless the context otherwise requires—

(1) The expression "estate" in Part One of this Act means any lands which the Estates Commissioners may declare fit to be regarded as a separate estate for the purposes of this Act, and the said expression in Part Two of this Act has the same meaning, with the substitution of the Congested Districts Board for the Estates Commissioners: (*a*).

The expression "prescribed," in any case not otherwise provided for, means prescribed by rules made by the Land Commission in the manner directed by Sub-section six of Section twenty-nine of the Act of 1891 (*b*):

The expression "demesne" includes any mansion house or other buildings thereon (*c*):

The expression "vesting order" includes fiat:

The expressions "Registry of Deeds" and "Registry of Judgments" have the same meanings respectively as in the Local Registration of Title (Ireland) Act, 1891 (*d*): 54 & 55 Vict. c. 66.

The expression "the Land Purchase Acts" includes Part Three of the Act of 1896, the Purchase of Land (Ireland) Act, 1901, the Purchase of Land (Ireland), No. 2, Act, 1901, and Part One of this Act (*e*): 1 Edw. 7, c. 30.

The expression "the Land Law Acts" means the Land Law Acts as defined by the Act of 1896 and Part One of that Act (*f*):

The expression "the Act of 1881" means the Land Law (Ireland) Act, 1881: 44 & 45 Vict. c. 49.

The expression "the Act of 1885" means the Purchase of Land (Ireland) Act, 1885: 48 & 49 Vict. c. 73.

The expression "the Act of 1887" means the Land Law (Ireland) Act, 1887: 50 & 51 Vict. c. 33.

The expression "the Act of 1891" means the Purchase of Land (Ireland) Act, 1891: and 54 & 55 Vict. c. 48.

The expression "the Act of 1896" means the Land Law (Ireland) Act, 1896. 59 & 60 Vict. c. 47.

The expression "the Public Works Acts" means the Drainage and Navigation (Ireland) Acts, 1842 to 1857; the Drainage and Improvement (Ireland) Acts, 1863 to 1892; the Fisheries (Ireland) Act, 1846; the Landed Property and Improvement (Ireland) Act, 1847, and any Act or enactment extending, amending, applying, or incorporating the said Acts or any of them or any part thereof; and the Drainage Maintenance Act, 1866.

(2) The expression "superior interest," in the Land Purchase Acts, shall include any reversion or estate expectant on the determination of an estate tail or a base fee, whether such reversion or estate is or is not vested in the Crown (*g*).

PART V.

Sect. 98.

Estate.

(*a*) Where lands are sold either direct to the tenants, or to the Land Commission for the purpose of resale, the originating application, or the originating request, as the case may be, contains an application to have the property declared an "estate." The Estates Commissioners having considered the matter, and having come to the conclusion that the property is fit to be so regarded, endorse upon the application or request a certificate to the following effect. "Subject to the result of such further inquiries as may be made, the lands referred to in" (*Parts I., II., III., or IV., as the case may be*) "of the within application may be regarded as an Estate; and the interest payable by the purchasers may be paid until further order to" (*the vendor or other the person nominated*). After the necessary inquiries have been made, and as soon as the Commissioners are in a position to make the advance, a further unqualified certificate is endorsed upon the application. The lands contained in this certificate are not necessarily the same as those comprised in the provisional certificate, as the inquiries may result in showing that some of the lands are not a proper subject for a declaration. If the vendor has untenanted land in the neighbourhood which he does not propose to sell, the Estates Commissioners consider whether such untenanted land is necessary for the purpose of enlargement of holdings, &c., and, if they think it is, they will not declare the property to be an estate unless the untenanted land is brought in for sale. The Estates Commissioners also require the vendor to include in the application all his tenanted land in the district, unless there is some good reason to the contrary. It sometimes happens that a small section of the tenants will not agree to the terms offered. In such a case the vendor should do either of two things. (1) Include the holdings of such tenants along with the other holdings in the application, and seek for a declaration in respect of the entire; or (2) Divide the schedule to the application into parts, including the tenants who have agreed in one part, and those who have refused in the other, and ask for the declaration in respect of the first part only. If the first course be adopted, and the tenants do not subsequently agree, application must be made to the Commissioners to exclude the holdings of the dissenting tenants. In either case the vendor must be prepared to satisfy the Estates Commissioners that equitable terms have been offered to these tenants, and that they have been unreasonably refused.

As to the importance of having the property declared to be an "Estate," see notes to Section 23, *ante* p. 77.

The definition of "Estate" given by the Section now being noted is very similar to the definition in Section 57 of the Act of 1881, which is as follows: "'An Estate' means any lands which the Land Commission may by order declare fit to be purchased as a separate estate for the purposes of this Act."

Untenanted land and town premises can be included in "Estate."

In *King-Harman's Estate* (38 I. L. T. R. 102), the question was raised as to whether the Estates Commissioners would be justified, with a view to the payment of the bonus, in defining as an "Estate" property which included (in addition to tenanted land) demesne land, other untenanted land outside the demesne, and town tenancies. MEREDITH, J., *held* that they would be so justified, so long as they did not disregard the condition laid down by Section 10 that no estate should be purchased by the Land Commission which is not in the main agricultural or pastoral. Section 1 of the Act of 1904 (*post* p. 165) now declares that untenanted land sold to the Land Commission or the Congested Districts Board may be regarded as an estate for the purpose of payment of the bonus.

In *Finlay's Estate* (38 I. L. T. R. 101) the vendor sold his tenanted land

direct to the tenants under Section 1, and sold his demesne to the Land Commission for the purpose of repurchasing same under the provisions of Section 3. MEREDITH, J., held that the Estates Commissioners were justified in declaring the tenanted land and the demesne to together constitute the "Estate," for the purpose of arriving at the amount to be advanced to the vendor for the repurchase of the demesne, and that the vendor was entitled to an advance of one-third of the purchase money of the estate so constituted, or £20,000, whichever should be the less.

Demesne can be included for purpose of Sect. 3.

In *Leonard's Estate* (38 I. L. T. R. 204) MEREDITH, J., decided that he could not entertain any application for payment of the bonus without evidence that the lands had been declared to be an "Estate" either by the Estates Commissioners or by the Congested Districts Board. In the same case he declined to make any suggestion to the Congested Districts Board as to whether they ought, or ought not, to give such a declaration, saying that in his opinion this was a matter absolutely in their discretion.

In *King-Harman's Estate* (No 2) (38 I. L. T. R. 237), MEREDITH, J., decided that agricultural and pastoral holdings, also holdings in the town of Boyle, all of which were wholly sub-let, might be included in the "Estate," but that there was no power to advance money to the middlemen for the purchase of such holdings. He, however, intimated that if the middlemen could be got rid of, by consent or otherwise, sales to the tenants in occupation might then be arranged.*

(*b*) Section 29 (6) of the Act of 1891 is as follows: "All Rules to be made by the Land Commission for carrying into effect the Land Purchase Acts, as amended by this Act, shall be made by a majority of the Commissioners, which majority shall include the Judicial Commissioner."

Manner in which Rules made.

As to the meaning of "prescribed" in the first twenty-three Sections of the Act, see Section 23 (13), *ante* p. 77.

"Prescribed."

(*c*) As to meaning of "demesne," see note (*a*) to Section 3, *ante* p. 14.

(*d*) Section 95 of the Local Registration of Title (Ireland) Act, 1891, provides that, "In this Act, unless there is something inconsistent in the context . . . 'Registry of Deeds' means the office for registering memorials of deeds, conveyances, and wills, established by the Act of the Parliament of Ireland of the sixth year of the reign of Queen Anne, Chapter two. . . .

Definition of "Registry of Deeds."

"'Registry of Judgments' means the office established by the Act of the Session of the seventh and eighth years of the reign of her present Majesty, chapter ninety."

Definition of "Registry of Judgments."

(*e*) Section 48 (1) of the Act of 1896 provides that "In this Act, unless the context otherwise requires . . . the expression the 'Land Purchase Acts' means the Purchase of Land (Ireland) Act, 1891, the Land Purchase Acts as therein defined, and the Redemption of Rent (Ireland) Act, 1891." The expression "the Land Purchase Acts" therefore includes the following:—

"Land Purchase Acts," meaning of.

The Act of 1870 (Parts II. and III.).
The Landlord and Tenant (Ireland) Act, 1872.
The Act of 1881 (Parts V., VI. and VII.).
The Tramways and Public Companies (Ireland) Act, 1883 (Part II.).
The Act of 1885.
The Act of 1887 (Parts II. and IV.).
The Purchase of Land Amendment Act, 1888.
The Purchase of Land (Ireland) Amendment Act, 1889.
The Act of 1891.
The Redemption of Rent (Ireland) Act, 1891.

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* See Addenda.

PART V.

Sects. 98–100.

The Act of 1896 (Part III.).

(*N.B.*—Parts II. and V. of the Act of 1896 would also seem to be included, as Section 50 (4) of that Act provides that, "Parts Two, Three, and Five of this Act shall be construed as one with the Land Purchase Acts as herein defined, and together with those Acts may be cited as the Land Purchase Acts.")

The Purchase of Land (Ireland) Act, 1901.

The Purchase of Land (Ireland) No. 2 Act, 1901, and

The Act of 1903 (Part I.).

The Act of 1904.

"Land Law Acts," meaning of.

(*f*) Section 48 of the Act of 1896 provides that, "In this Act, unless the context otherwise requires . . . the expression 'Land Law Acts' means the Land Law (Ireland) Act, 1881, except Part V. thereof, the Land Law (Ireland) Act, 1887, except Part II., and the Land Law (Ireland) Act, 1888, and the Timber (Ireland) Act, 1888, and the Land Law (Ireland) Act, 1888, Amendment Act, 1889, and the Redemption of Rent (Ireland) Act, 1891, and does not include the Landlord and Tenant (Ireland) Act, 1870, except so far as the provisions of it are necessary for giving effect to the above-mentioned portion of the Land Law (Ireland) Act, 1881."

The expression "Land Law Acts" also appears to include Part III. of the Act of 1903; see Section 100, *infra*.

(*g*) For definition of "superior interest," see note (*d*) to Section 7, *ante* p. 25.

Crown reversions.

As to the effect of including crown reversions in the expression "superior interest," see notes to Section 64, *ante* p. 139.

Sporting rights, minerals and water.

99. Nothing in this Act shall affect—

(*a*) Any sporting rights, mineral rights, or water rights which are not in the possession or enjoyment of the vendor at the time of sale; (*a*)

(*b*) Any mine or quarry which is being worked or developed by the vendor at the time of sale (*b*); or

(*c*) Any right to water-power in actual use by the vendor at the time of sale.

(*a*) Sporting rights and mineral rights which are not in the possession or enjoyment of the vendor at the time of sale cannot be compulsorily redeemed, nor apparently can water rights in a similar position, *Macnaghten's Estate*, 38 I. L. T. R. 222.*

(*b*) In *Prior Wandesford's Estate* (38 I. L. T. R. 168), MEREDITH, J., decided that where seams of coal underlay the entire property of the vendor, and were being worked at the time of sale from old shafts sunk from time to time on different parts of the estate, the case came within Section 99 (*b*), and the mineral rights under the entire estate might be reserved to the vendor.

Construction.

100.—(1) Part One of this Act shall be construed as one with the Land Purchase Acts (*a*) and may be cited with those Acts.

(2) Part Two of this Act shall be construed as one with the Congested Districts Board (Ireland) Acts (*b*) and may be cited with those Acts.

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* See Addenda.

(3) Part Three of this Act shall be construed as one with the Land Law Acts (*c*) and may be cited with those Acts.

(4) Part Four of this Act shall be construed as one with the Labourers (Ireland) Acts, 1883 to 1896, (*d*) and may be cited with those Acts.

(*a*) **Land Purchase Acts.**—As to the Statutes which are comprised in the expression "Land Purchase Acts," see notes to Section 98, *ante* p. 161.

(*b*) **Congested Districts Board (Ireland) Acts.**—The Statutes which are comprised within this expression are—

The Purchase of Land (Ireland) Act, 1891, Part II.
The Public Works Loans Act, 1892, Section 4.
The Congested Districts Board (Ireland) Act, 1893.
The Congested Districts Board (Ireland) Act, 1894.
The Land Law (Ireland) Act, 1896, Part IV.
The Congested Districts Board (Ireland) Act, 1899.
The Congested Districts Board (Ireland) Act, 1901.
The Irish Land Act, 1903, Part II.

(*c*) **Land Law Acts.**—As to the Statutes which are comprised in the expression "Land Law Acts," see notes to Section 98, *ante* p. 162.

(*d*) **Labourers (Ireland) Acts, 1883 to 1896.**—These Acts are—

Labourers (Ireland) Act, 1883 (46 & 47 Vict. c. 60).
Labourers (Ireland) Act, 1885 (48 & 49 Vict. c. 77).
Labourers (Ireland) Act, 1886 (49 & 50 Vict. c. 59).
Labourers (Ireland) Act, 1891 (54 & 55 Vict. c. 71).
Labourers (Ireland) Act, 1892 (55 Vict. c. 7).
Labourers (Ireland) Act, 1896 (59 & 60 Vict. c. 53).

Short title.

101. This Act may be cited as the Irish Land Act, 1903.

Commencement of Act.

102. This Act shall come into operation on the first day of November nineteen hundred and three.

Repeals.

103. The Acts specified in the schedule to this Act are hereby repealed to the extent mentioned in the third column of that schedule.

SCHEDULE.

Acts Repealed.

Session and Chapter.	Short Title.	Extent of Repeal.
44 & 45 Vict. c. 49	The Land Law (Ireland) Act, 1881.	Section twenty-six so far as unrepealed except sub-section five. In sub-section five from "The land commission may" to the end of the sub-section. Section twenty-seven. Section thirty-four so far as unrepealed except sub-section five. Section forty-four from "with this" to the end of the section. Section forty-seven from "all appeals" to "Judicial Commissioner."
48 & 49 Vict. c. 73.	The Purchase of Land (Ireland) Act, 1885.	Section five down to "for an advance." Section seven.
50 & 51 Vict. c. 33.	The Land Law (Ireland) Act, 1887.	In section sixteen from "if the parties consent" to "apply to the Land Commission."
54 & 55 Vict. c. 48.	The Purchase of Land (Ireland) Act, 1891.	Section three. In sub-section one of section thirty-four. from "a member" to "forestry" and the words "the Chief Secretary when absent shall be replaced by the Under Secretary to the Lord Lieutenant." Sub-sections three, four, five, and six of section thirty-six.
54 & 55 Vict. c. 71.	The Labourers (Ireland) Act, 1891.	Section three.
59 & 60 Vict. c. 47.	The Land Law (Ireland) Act, 1896.	In section twenty-nine sub-section three. In section forty-three sub-sections one to five, save as regards agreements for purchase made before the passing of this Act.
62 & 63 Vict. c. 18.	The Congested Districts Board (Ireland) Act, 1899.	Section three, save as regards agreements for purchase made before the passing of this Act.
1 Edw. 7. c. 3.	The Purchase of Land (Ireland) Act, 1901.	In section one sub-sections two and three.

IRISH LAND ACT, 1904.

(4 EDW. VII., CAP. 34.)

AN ACT TO EXPLAIN AND AMEND SECTION FORTY-EIGHT OF THE IRISH LAND ACT, 1903, WITH RESPECT TO THE PAYMENT AND APPLICATION OF THE PERCENTAGE PROVIDED BY THE SAID SECTION. [15*th August*, 1904.]

BE it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :—

Sects. 1–2.

Amendment of 3 Edw. 7. c. 37. s. 48. as to untenanted land.

1. Any land wholly or partly untenanted sold to the Land Commission or the Congested Districts Board may be regarded as an estate for the purpose of the payment of any percentage under Section forty-eight of the Irish Land Act, 1903.

This Section confirms the decision of MEREDITH, J., in *King-Harman's Estate* (38 I. L. T. R. 102) as to the payment of the bonus on untenanted land. For a fuller note of the decision, see p. 160 *ante*. For notes on Section 48, Act 1903, see p. 97 *ante*.

As to payment and application of percentage.

2. The percentage mentioned in the said Section forty-eight may, (*a*) subject to the enactments contained in the proviso to Sub-section one and in Sub-section four (*b*) thereof, be paid to any vendor, other than the Congested Districts Board, whether such vendor is a person entitled to a beneficial interest in the land sold, or is a trustee or other person not so entitled, (*c*) and, save as hereinafter provided, shall be held by him on the trusts (if any) affecting the purchase money (*d*).

(*a*) **May.**—"May" means "must," see *King-Harman's Estate* (38 I. L. T. R. 102), noted *ante* p. 97.

(*b*) **Sub-Section one and in Sub-section four.**—The proviso to Sub-section (1) declared that where the estate is insolvent in point of income, or where it is sold by the Land Judge, the bonus is not to be paid to the vendor but is to be added to the purchase money.

Sects. 2–3.

Sub-section (4) provides that no bonus is to be paid in respect of—

(1) An insolvent estate sold by the Land Judge.

(2) An insolvent estate with regard to which an absolute order for sale was in force on 14th August 1903.

(3) An estate sold by a mortgagee in possession.

(*c*) **Trustee or other person not so entitled.**—This Section confirms the decision in *Ely's Estate* ([1904] 1 I. R. 66), where ROSS, J., held that the expression "vendor" "includes all classes of persons or bodies corporate who can sell under the Land Purchase Acts, and includes trustees, express or constructive;" a decision which was followed by MEREDITH, J., in *King-Harman's Estate*, 38 I. L. T. R. 102.

(*d*) Where a tenant for life is entitled to an estate under a settlement of which there are trustees with power of sale, the estate can be sold either by the life tenant or by the trustees. If the former sells, he will be entitled to the bonus; if the latter, the bonus will apparently become subject to the settlement. This fact should be remembered when determining in whose name the proceedings for sale are to be instituted. In the case of *In re Iever's Settlements* [1904], 1 I. R. 492, a person who had the powers of a tenant for life under Section 63 of the Settled Land Act, 1882, applied for liberty to sell under Section 7 of the Settled Land Act, 1884. The Trustees of the Settlement opposed the application, and contended that they should be appointed to sell so as to capture the bonus for the benefit of the inheritance. BARTON, J., gave the tenant for life liberty to sell, and said that he did not think that the fact that he would get a benefit which the Legislature had expressed an intention of conferring upon him was any reason for withholding the leave of the Court.

Under Section 48 (1) of the Act of 1903, where the estate is solvent in point of income, the vendor becomes absolutely entitled to the bonus, even although the purchase money is insufficient to pay the incumbrances in full: *query*, do the words in the Sub-section now being noted "shall be held by him on the trusts if any affecting the purchase money" make the bonus liable to the incumbrances?

Special provisions as to tenants for life, persons under disability, &c.

3.—(1) Where the vendor is a tenant for life or a person having the powers of a tenant for life (*a*) under the Settled Land Acts, 1882 to 1890, the percentage shall, subject to those enactments of the said Section forty-eight mentioned in the last preceding Section, be retained by him as his own proper moneys for his own use and benefit, free and discharged from all claims upon the lands sold, or the purchase money thereof, and from any trust affecting the same (*b*).

Provided that where the vendor is a person exercising any power of sale on behalf of a lunatic, (*c*) person of unsound mind, or infant, or where the vendor is a lunatic or person of unsound mind selling pursuant to any order made by the Lord Chancellor, (*d*) the percentage shall be held for the use and benefit of the same persons, or upon the same trusts, as the case may be, as if the lunatic, person of unsound mind, or infant, as the case may be, were not under any disability.

Sects. 3–5.

Provided also that where the vendors are husband and wife exercising together the powers of a tenant for life under Section sixty-one of the Settled Land Act, 1882, the percentage shall be retained by them jointly for their own use and benefit, free and discharged from all claims and trusts as aforesaid. (*e*)

45 & 46 Vict. c. 38.

(2) The expression "lunatic" in this Section has the same meaning as in the Lunacy Regulation (Ireland) Act, 1871. (*f*)

34 & 35 Vict. c. 22.

(*a*) **Having the powers of a tenant for life.**—As to the persons who have the powers of a tenant for life, see notes to Section 17, Act 1903, *ante* pp. 56 and 57.

(*b*) In *Annally's Trusts* (53 W. R. 150) the facts were as follows:—

A was tenant for life of real estate under a real estate settlement, and was also tenant for life of personal estate under a personal estate settlement of even date. The latter deed contained a covenant by A for settlement of after-acquired property except "her estate or interest in the real estate, subject to the will and codicil of the late Henry Viscount Clifden, her interest in which is settled by the real estate settlement before mentioned." The property subject to the real estate settlement was sold under the Act of 1903, and the question arose as to whether the bonus was captured by the after-acquired property clause in the settlement. KEKEWICH, J., held that it was an interest in the real estate, and, consequently, excluded from the after-acquired property clause. *Held*, further, that, under the Act of 1904, it belonged to A for her own use.*

(*c*) **A person exercising any power of sale on behalf of a lunatic.**—Under Section 62 of the Settled Land Act, 1882, the Committee of a lunatic who is a life tenant may exercise the powers of a tenant for life on his behalf. See notes to Section 26, Act 1903, *ante* p. 87.

(*d*) **Order made by the Lord Chancellor.**—Section 26, Act 1903, authorises the Lord Chancellor to order a sale of a lunatic's lands. See that Section, *ante* p. 87.

(*e*) As to sales by a husband and wife jointly under Section 61 of the Settled Land Act, 1882, see note (*a*) to Section 17, Act 1903, *ante* p. 67.

(*f*) Section 2 of the Lunacy Regulation (Ireland) Act, 1871, provides that "the word 'lunatic' shall be construed to mean any person found by inquisition idiot, lunatic, or of unsound mind, and incapable of managing himself or his affairs."

Construction and citation. 3 Edw. 7. c. 37.

4. This Act shall be construed as one with the Irish Land Act, 1903, and may be cited with the Land Purchase Acts, and the said Act of 1903 shall be construed and shall take effect from the date of its passing as if this Act had then formed part thereof.

Short title.

5. This Act may be cited as the Irish Land Act, 1904.

* This decision was followed by MEREDITH, J., in *Annally's Estate* (5 N. I. J. R. 117), but he intimated that if the same question should arise in a different case he would have to give it full consideration before pronouncing judgment.

APPENDIX A.—TABLES.*

TABLE A.

Showing amount of annuity as compared with rent where reductions of from 5 per cent. to 40 per cent. given.

Rent.			Annuity if 5% less than rent.			Annuity if 10% less than rent.			Annuity if 15% less than rent.			Annuity if 20% less than rent.			Annuity if 25% less than rent.			Annuity if 30% less than rent.			Annuity if 35% less than rent.			Annuity if 40% less than rent.		
£	s.	d.	£	s.	d.	£	s.	d.	£	s.	d.	£	s.	d.	£	s.	d.	£	s.	d.	£	s.	d.	£	s.	d.
		6			5¾			5½			5			4¾			4½			4¼			4			3½
	1	0			11½			10¾			10¼			9½			9			8½			7¾			7¼
	2	0		1	10¾		1	9½		1	8½		1	7¼		1	6		1	4¾		1	3½		1	2½
	3	0		2	10¼		2	8½		2	6½		2	4¾		2	3		2	1¼		1	11½		1	9½
	4	0		3	9½		3	7¼		3	4¾		3	2½		3	0		2	9½		2	7¼		2	4¾
	5	0		4	9		4	6		4	3		4	0		3	9		3	6		3	3		3	0
	6	0		5	8½		5	4¾		5	1¼		4	9½		4	6		4	2½		3	10¾		3	7¼
	7	0		6	7¾		6	3½		5	11½		5	7¼		5	3		4	10¾		4	6½		4	2½
	8	0		7	7¼		7	2½		6	9½		6	4¾		6	0		5	7¼		5	2½		4	9½
	9	0		8	6½		8	1¼		7	7¾		7	2½		6	9		6	3½		5	10¼		5	4¾
	10	0		9	6		9	0		8	6		8	0		7	6		7	0		6	6		6	0
	11	0		10	5½		9	10¾		9	4¼		8	9½		8	3		7	8½		7	1¾		6	7¼
	12	0		11	4¾		10	9½		10	2½		9	7¼		9	0		8	4¾		7	9½		7	2½
	13	0		12	4¼		11	8½		11	0½		10	4¾		9	9		9	1¼		8	5½		7	9½
	14	0		13	3½		12	7¼		11	10¾		11	2½		10	6		9	9½		9	1¼		8	4¾
	15	0		14	3		13	6		12	9		12	0		11	3		10	6		9	9		9	0
	16	0		15	2½		14	4¾		13	7¼		12	9½		12	0		11	2½		10	4¾		9	7¼
	17	0		16	1¾		15	3½		14	5½		13	7¼		12	9		11	10¾		11	0½		10	2½
	18	0		17	1¼		16	2½		15	3½		14	4¾		13	6		12	7¼		11	8½		10	9½
	19	0		18	0½		17	1¼		16	1¾		15	2½		14	3		13	3½		12	4¾		11	4¾
1	0	0		19	0		18	0		17	0		16	0		15	0		14	0		13	0		12	0
2	0	0	1	18	0	1	16	0	1	14	0	1	12	0	1	10	0	1	8	0	1	6	0	1	4	0
3	0	0	2	17	0	2	14	0	2	11	0	2	8	0	2	5	0	2	2	0	1	19	0	1	16	0
4	0	0	3	16	0	3	12	0	3	8	0	3	4	0	3	0	0	2	16	0	2	12	0	2	8	0
5	0	0	4	15	0	4	10	0	4	5	0	4	0	0	3	15	0	3	10	0	3	5	0	3	0	0
6	0	0	5	14	0	5	8	0	5	2	0	4	16	0	4	10	0	4	4	0	3	18	0	3	12	0
7	0	0	6	13	0	6	6	0	5	19	0	5	12	0	5	5	0	4	18	0	4	11	0	4	4	0
8	0	0	7	12	0	7	4	0	6	16	0	6	8	0	6	0	0	5	12	0	5	4	0	4	16	0
9	0	0	8	11	0	8	2	0	7	13	0	7	4	0	6	15	0	6	6	0	5	17	0	5	8	0
10	0	0	9	10	0	9	0	0	8	10	0	8	0	0	7	10	0	7	0	0	6	10	0	6	0	0
20	0	0	19	0	0	18	0	0	17	0	0	16	0	0	15	0	0	14	0	0	13	0	0	12	0	0
30	0	0	28	10	0	27	0	0	25	10	0	24	0	0	22	10	0	21	0	0	19	10	0	18	0	0
40	0	0	38	0	0	36	0	0	34	0	0	32	0	0	30	0	0	28	0	0	26	0	0	24	0	0
50	0	0	47	10	0	45	0	0	42	10	0	40	0	0	37	10	0	35	0	0	32	10	0	30	0	0
60	0	0	57	0	0	54	0	0	51	0	0	48	0	0	45	0	0	42	0	0	39	0	0	36	0	0
70	0	0	66	10	0	63	0	0	59	10	0	56	0	0	52	10	0	49	0	0	45	10	0	42	0	0
80	0	0	76	0	0	72	0	0	68	0	0	64	0	0	60	0	0	56	0	0	52	0	0	48	0	0
90	0	0	85	10	0	81	0	0	76	10	0	72	0	0	67	10	0	63	0	0	58	10	0	54	0	0
100	0	0	95	0	0	90	0	0	85	0	0	80	0	0	75	0	0	70	0	0	65	0	0	60	0	0

* As to method of using tables, see note (*j*) to Sect. 1, *ante* p. 5.

TABLE B.

Showing amount of purchase money representing any given annuity.

Annuity.		Purchase Money.			Annuity.			Purchase Money.		
s.	*d.*	£	*s.*	*d.*	£	*s.*	*d.*	£	*s.*	*d.*
	1		2	7	1	0	0	30	15	5
	2		5	2	2	0	0	61	10	9
	3		7	8	3	0	0	92	6	2
	4		10	3	4	0	0	123	1	6
	5		12	10	5	0	0	153	16	11
	6		15	5	6	0	0	184	12	4
	7		17	11	7	0	0	215	7	8
	8	1	0	6	8	0	0	246	3	1
	9	1	3	1	9	0	0	276	18	6
	10	1	5	8	10	0	0	307	13	10
	11	1	8	2	11	0	0	338	9	3
1	0	1	10	9	12	0	0	369	4	7
2	0	3	1	6	13	0	0	400	0	0
3	0	4	12	4	14	0	0	430	15	5
4	0	6	3	1	15	0	0	461	10	9
5	0	7	13	10	16	0	0	492	6	2
6	0	9	4	7	17	0	0	523	1	6
7	0	10	15	4	18	0	0	553	16	11
8	0	12	6	2	19	0	0	584	12	4
9	0	13	16	11	20	0	0	615	7	8
10	0	15	7	8	30	0	0	923	1	6
11	0	16	18	6	40	0	0	1230	15	5
12	0	18	9	3	50	0	0	1538	9	3
13	0	20	0	0	60	0	0	1846	3	1
14	0	21	10	9	70	0	0	2153	16	11
15	0	23	1	6	80	0	0	2461	10	9
16	0	24	12	4	90	0	0	2769	4	7
17	0	26	3	1	100	0	0	3076	18	6
18	0	27	13	10						
19	0	29	4	7						

TABLE C.

Showing the reduction which a tenant will obtain according to the number of years purchase which he gives.

No. of Years Purchase.	Reduction Obtained.	No. of Years Purchase.	Reduction Obtained.
	Per cent.		Per cent.
28	9	21	$31\frac{3}{4}$
27	$12\frac{1}{4}$	20	35
26	$15\frac{1}{2}$	19	$38\frac{1}{4}$
25	$18\frac{3}{4}$	18	$41\frac{1}{2}$
24	22	17	$44\frac{3}{4}$
23	$25\frac{1}{4}$	16	48
22	$28\frac{1}{2}$		

TABLE D.

Showing interest at 3¼ per cent. on sums varying from £1 to £1000.

Purchase Money.	Annual Instalment.			Purchase Money.	Annual Instalment.		
£	£	s.	d.	£	£	s.	d.
1			7¾	56	1	16	4¾
2		1	3½	57	1	17	0½
3		1	11¼	58	1	17	8½
4		2	7	59	1	18	4¼
5		3	3	60	1	19	0
6		3	10¾	61	1	19	7¾
7		4	6½	62	2	0	3½
8		5	2½	63	2	0	11½
9		5	10	64	2	1	7¼
10		6	6	65	2	2	3
11		7	1¾	66	2	2	10¾
12		7	9½	67	2	3	6½
13		8	5¼	68	2	4	2½
14		9	1	69	2	4	10¼
15		9	9	70	2	5	6
16		10	4¾	71	2	6	1¾
17		11	0¾	72	2	6	9½
18		11	8½	73	2	7	5½
19		12	4¼	74	2	8	1¼
20		13	0	75	2	8	9
21		13	7¾	76	2	9	4¾
22		14	3½	77	2	10	0½
23		14	11½	78	2	10	8½
24		15	7¼	79	2	11	4¼
25		16	3	80	2	12	0
26		16	10¾	81	2	12	7¾
27		17	6½	82	2	13	3½
28		18	2½	83	2	13	11½
29		18	10¼	84	2	14	7¼
30		19	6	85	2	15	3
31	1	0	1¾	86	2	15	10¾
32	1	0	9½	87	2	16	6½
33	1	1	5½	88	2	17	2½
34	1	2	1¼	89	2	17	10¼
35	1	2	9	90	2	18	6
36	1	3	4¾	91	2	19	1¾
37	1	4	0½	92	2	19	9½
38	1	4	8½	93	3	0	5½
39	1	5	4¼	94	3	1	1¼
40	1	6	0	95	3	1	9
41	1	6	7¾	96	3	2	4¾
42	1	7	3½	97	3	3	0½
43	1	7	11½	98	3	3	8½
44	1	8	7¼	99	3	4	4¼
45	1	9	3	100	3	5	0
46	1	9	10¾	200	6	10	0
47	1	10	6½	300	9	15	0
48	1	11	2½	400	13	0	0
49	1	11	10¼	500	16	5	0
50	1	12	6	600	19	10	0
51	1	13	1¾	700	22	15	0
52	1	13	9½	800	26	0	0
53	1	14	5½	900	29	5	0
54	1	15	1¼	1000	32	10	0
55	1	15	9				

APPENDIX B.—STATUTES.

LANDS CLAUSES CONSOLIDATION ACT, 1845.

(8 & 9 VICT. C. 18.)

78. Upon the Application by Petition of any Party making claim to the money so deposited as last aforesaid, or any part thereof, or to the lands in respect whereof the same shall have been so deposited, or any part of such lands, or any interest in the same, the said Court of Chancery in England or the Court of Exchequer in Ireland may, in a summary way, as to such Court shall seem fit, order such money to be laid out or invested in the public funds, or may order distribution thereof, or payment of the dividends thereof, according to the respective estates, titles or interests of the parties making claim to such money or lands, or any part thereof, and may make such other order in the premises as to such Court shall seem fit.

8 & 9 Vict. c. 18.

Application of monies so deposited.

79. If any question arise respecting the title to the lands in respect whereof such monies shall have been so paid or deposited as aforesaid, the parties respectively in possession of such lands, as being the owners thereof, or in receipt of the rents of such lands, as being entitled thereto at the time of such lands being purchased or taken, shall be deemed to have been lawfully entitled to such lands, until the contrary be shown to the satisfaction of the Court; and unless the contrary be shown as aforesaid, the parties so in possession, and all parties claiming under them, or consistently with their possession, shall be deemed entitled to the money so deposited, and to the dividends or interest of the annuities or securities purchased therewith, and the same shall be paid and applied accordingly.

Party in possession to be deemed the owner.

LANDED ESTATES COURT (IRELAND) ACT, 1858.

(21 & 22 VICT. C. 72.)

21 & 22 Vict. c. 72.

61. Every such Conveyance executed as aforesaid by the said Judge purporting to pass an estate in fee-simple shall be effectual to pass the fee-simple and inheritance of the land, subject to such charges, tenancies, rights of common, or other easements, leases, and under-leases, as may be expressed or referred to therein as

Conveyance to purchaser to pass fee, subject to tenancies, but discharged from all estates and incumbrances.

21 & 22 Vict. c. 72.

Conveyance of a lease, rent-charge, annuity, or partial estate to pass estate created by the instrument purporting to grant same.

aforesaid, but, save as aforesaid, and as hereinafter provided, discharged from all former and other estates, rights, titles, charges, and incumbrances whatsoever of Her Majesty, her heirs and successors, and of all other persons whomsoever; and every such conveyance or assignment executed by the said Judge upon the sale of a lease or rent-charge, or an annuity charged on land, or any partial or lesser estate than an estate in fee-simple, shall be effectual to pass the estate created or agreed to be created by such lease, then remaining unexpired, or by the instrument creating such lesser or partial estate, rent-charge, or annuity, but subject as to such lease to the rent and covenants annexed to the reversion expectant on the determination of such lease and as to such instrument creating such rent-charge, annuity, or partial or lesser estate, subject to such tenancies, rights of common, or other easements, leases, and under-leases, as shall be expressed or referred to in such conveyance or assignment, but, save as aforesaid, and as hereinafter provided, discharged from all rights, titles, charges, and incumbrances whatsoever affecting the leasehold estate or interest, rent-charge, annuity, or partial or lesser estate: Provided always, that where any land or lease, or part thereof, shall be sold and conveyed or assigned subject to any annual charge or apportioned part thereof, such annual charge or apportioned part thereof (as the case may be) shall remain and be charged on and payable out of such land, or part thereof, as in the conveyance or assignment shall be expressed.

Conveyance, &c., not to affect certain charges made by virtue of 5 & 6 Vict. c. 89 and 10 & 11 Vict c. 32 except where Court think fit to redeem Crown rents, &c.

62. Provided always, that any conveyance, assignment, or declaration of title under this Act shall not prejudice or affect any rent-charge in lieu of tithes, Crown rent, or quit-rent charged upon or issuing out of any land, or any charge made by virtue of an Act passed in the sixth year of Her Majesty, intituled *an Act to promote the Drainage of Lands and Improvement of Navigation and Water Power in connexion with such Drainage in Ireland*, and the Acts amending the same, or by virtue of an Act passed in the tenth year of Her Majesty, intituled *an Act to facilitate the Improvement of Landed Property in Ireland*, save where the said Court shall think fit to redeem or apportion the Crown rents or quit-rents, or any part thereof, or to pay off or redeem the charges under the said Acts, or either of them, under the power hereinafter contained, and shall express in such conveyance or assignment that the land conveyed or assigned thereby is so conveyed or assigned discharged of all Crown rents or quit-rents or charges under the said Acts or either of them, as the case may be, and in such case such land shall be so discharged accordingly: Provided always, that in every case in which application shall be made to the Court for the sale

or conveyance of, or declaration of title to, the fee-simple of any land or hereditaments, the Judge, before making any final order for such sale, conveyance, or declaration, shall be satisfied that one calendar month's previous notice in writing of such application has been given to the Commissioners of Her Majesty's Woods, Forests, and Land Revenues, on behalf of Her Majesty or her successors, stating full particulars of the land or hereditaments for the sale or conveyance of, or declaration of title to, which application has been or is intended to be made, and of any rent payable to Her Majesty or her successors in respect of the same.

21 & 22 Vict. c. 72.

Court may provide for redemption of certain charges, and otherwise to facilitate the distribution of the purchase money.

68. It shall be lawful for the Court, with the consent in writing of the Commissioners of Her Majesty's Woods, Forests, and Land Revenues, or one of them, to apportion any Crown rent upon or amongst the several lands liable to the payment thereof, or to charge the whole of any such rent on any part of the lands charged therewith in exoneration of the remainder of such lands, and every such apportionment or exclusive charge shall be binding on the Queen's Majesty and on every corporation and person, and the apportioned parts of any such Crown rent, or any such Crown rent so exclusively charged, shall thenceforth be issuing out of and chargeable upon the lands whereon the same may be apportioned or exclusively charged, but no such apportionment or exclusive charge shall in any manner prejudice or affect any reversion or remainder of the Crown in any lands originally charged with any such rent so apportioned or exclusively charged, nor shall the sale of any apportioned part of any Crown rent, or of any Crown rent so exclusively charged, or of any interest in the reversion or remainder of the Crown in the same lands, affect the right or interest of the Crown in any other part of the lands originally charged with any rent so apportioned or exclusively charged, either as regards the rent remaining unsold, or the Crown's interest in the remainder or reversion of such lands or otherwise; and it shall also be lawful for the Court to sell any land, or part thereof, discharged from any Crown rent or quit-rent which it may be enabled, and may, with consent of the owner, think fit to purchase, or from any charge made by virtue of the said Acts of the sixth and tenth years of Her Majesty, or either of them, which it may, with such consent, think fit to pay off or redeem; and in any such case the Court shall, out of the money arising from the sale, and in preference to all other payments thereout, pay the consideration for the purchase of such Crown rent or quit-rent, or such sum as may be necessary for paying off or redeeming such charge; and it shall be lawful for the Court, where it shall think fit, to purchase, with the consent

21 & 22 Vict. c. 72.

of the said Commissioners of Woods, any estate or interest of the Crown, in remainder or reversion, in the whole or any part of the lands for the sale of or declaration of title to which application has been made. or to pay to any person entitled to any annual or other charge, not being an incumbrance according to the definition of this Act, who may consent to accept the same, a gross sum in discharge or by way of redemption thereof or of a part thereof, and where a part only of any land or lease subject to any incumbrance or charge is sold, to charge the part not sold with such incumbrance or charge, or an apportioned part thereof, in exoneration of the money arising from the sale, and to enable or authorise persons to release the money arising from the part so sold from any incumbrance or charge, or to relinquish their claim on such money in respect thereof, without impairing or affecting such incumbrance or charge as to the remaining part of the land or lease originally charged; and the Court, where it shall think fit, may invest or provide for the investment of money to meet any annual or periodical charge, or any other charge, incumbrance, or interest where, by reason of such charge, incumbrance, or interest, being contingent or otherwise, it shall appear to the Court proper or expedient so to do, and otherwise may make such orders and directions for applying the money arising from any sale in such manner as will secure the convenient application thereof for the benefit and according to the rights of the parties interested in the land or part thereof from the sale of which the same shall have arisen.

If land sold subject to a lease, &c., comprising other land, or if part of lease in perpetuity, &c., be sold, Court may apportion the rent.

72. If any land to be sold under this Act shall be subject to a lease or under-lease for years or lives comprising other land at an entire rent, it shall be lawful for the Court to apportion the rent between the land to be sold and the remainder of the land subject to such rent; and where it is intended to sell under this Act a part only of any lease in perpetuity or other lease, it shall be lawful for the Court, where it shall think fit, and (having regard to the rights and interests of the owner of the reversion) it shall appear to the Court just so to do, to apportion the rent reserved by such lease between the land to be sold and the remainder of the land; and the Court shall direct notices of any such intended apportionment as aforesaid to be given to such persons and in such manner as it shall think fit, and shall hear such parties as shall apply to them in relation thereto: and after such apportionment, and after the sale shall be completed, the owners of the reversion in the respective lands shall have the like remedies for the apportioned rents against the lands out of which the same shall be payable, and the owners and occupiers thereof respectively, as were subsisting for the entire rent before

such apportionment, and all the covenants, conditions and agreements of every lease or under-lease, except as to the amount of rent to be paid, shall, as regards the apportioned parts, remain in force in the same manner as they would have done in case no such application had taken place: Provided always, that the enactment in this Section shall be deemed to apply to any rent reserved upon a lease, where the Court shall have sold or shall sell the reversion expectant upon such lease at different times or in different lots.

Provisions for persons under disability.

73. Where any person who (if not under disability) might have made any application, given any consent, done any act, or been party to any proceedings under this Act, shall be a minor, idiot, lunatic, or married woman, the guardian, committee of the estate, and husband respectively of such person may make such applications, give such consents, do such acts, and be party to such proceedings, as such persons respectively, if free from disability, might have made, given, done, or been party to, and shall otherwise represent such person for the purposes of this Act; but a married woman entitled for her separate use (with or without power of anticipation) shall, for the purposes of this Act be deemed a *feme sole:* Provided always, that where there shall be no guardian or committee of the estate of any such person as aforesaid being infant, idiot, or lunatic, or where any person, the committee of whose estate, if he were an idiot or lunatic, would be authorised to act for and represent such person under this Act, shall be of unsound mind, or incapable of managing his affairs, but shall not have been found idiot or lunatic under an inquisition, it shall be lawful for the Court to appoint a guardian of such person for the purpose of any proceedings under this Act, and from time to time to change such guardian; and where the Court sees fit it may appoint a person to act as the next friend of a married woman for the purpose of any proceeding under this Act, and from time to time remove or change such next friend.

An application for sale of an undivided share, or after sale Court may, on application of party interested, and giving notices and hearing parties, make order for a partition.

79. Where an application shall be made for a sale under this Act of an undivided share of any land, or where any such undivided share shall have been sold under this Act, and either before or after the conveyance or assignment thereof under this Act, the Court on the application of any party interested in such undivided share, or of the purchaser (as the case may be) and after causing to be given such notices to the owner or owners of the other undivided share or shares of the same land or lease as it may think fit, and hearing such parties interested in the respective shares as may apply to it, and making or causing to be made such inquiries as may enable it to make a just partition, may, if it shall think fit, make an order under its seal for the partition of such land; and in such order, or in a map or plan

21 & 22 Vict. c. 72.

annexed thereto, shall be shown the part allotted in severalty in respect of each of the undivided shares in such land; and the Court shall have the like authorities, jurisdiction, and power in relation to such partition under the direction of such Court; and the part so allotted in severalty in respect of each such undivided share by such order for partition as aforesaid shall, without any conveyance or other assurance in relation thereto, go and enure to and upon the same uses and trusts, and be subject to the same conditions, charges, and incumbrances, as the undivided share in respect of which the same if so allotted would have stood limited or been subject to in case such order had not been made; and the like order for a sale of the part allotted in respect of the undivided share to which the application for the sale shall relate may be made (where the order for partition is made before the sale), and the like proceedings had in relation to such sale, and the like conveyance or assignment may be made of the part allotted in respect of the share sold (where the order for partition is made after sale, and before conveyance or assignment), and with the like consequences in the several cases aforesaid, as if the application for a sale, or the sale (as the case may be), had been in respect of the part so allotted as aforesaid; and where any land or lease, or part thereof, to be sold under this Act, is subject to any lease, under-lease, or tenancy under which the lessees, under-lessees, or tenants hold jointly, or as tenants in common, it shall be lawful for the Court, on the application of any such lessee, under-lessee, or tenants, and after causing to be given such notices as it may think fit, and hearing such parties as may apply to it, and making such inquiries as it may think necessary, to make an order under its seal for the partition, as between such lessees, under-lessees, or tenants of the land included in their lease, under-lease, or tenancy, and for the apportionment of the rent reserved or payable under such lease, under-lease, or tenancy: and after such order of partition the owner of the reversion in the respective parts of the land shall have the like remedies for the apportioned rents against the respective parts out of which the same shall be payable, and the lessees, under-lessees, or tenants holding such respective parts under such lease, under-lease, or tenancy, and such order of partition, as were subsisting for the entire rent before such partition and apportionment; and all the covenants, conditions, and agreements of every such lease, under-lease, or tenancy, except as to the amount of rent to be paid, shall, as regards the respective parts allotted on such partition, and the apportioned parts of the rent, remain in force as against the respective lessees, under-lessees, or tenants to whom under such partition such respective parts shall be allotted.

21 & 22 Vict. c. 72.

On application for sale, or after sale, Court, on application of party interested, and with consent may make order for exchange.

80. Where an application shall be made for a sale under this Act of any land or part thereof, or where the same shall have been sold under this Act, and either before or after the conveyance or assignment thereof under this Act, if application be made to the Court by any party interested in such land, or by the purchaser (as the case may be), for the exchange of all or any part of such land for other land which the owner thereof may be willing to give in exchange, the Court may make or cause to be made such inquiries as they think fit, for ascertaining whether such exchange would be beneficial to the person interested in the respective lands and cause such notices to be given to parties interested in the respective lands, as it may think fit; and if, after making such inquiries, and hearing such parties interested in the respective lands as may apply to them, the Court shall be of opinion that such exchange would be beneficial, and that the terms thereof as proposed, or as modified by it, with the consent of such owner as aforesaid, are just and reasonable, the said Court may make an order under their seal for such exchange, accordingly, and in such order for exchange, or in a map or plan annexed thereto, shall be shown the lands given and taken in exchange respectively under such order ; and the land taken upon such exchange under such order shall, without any conveyance or other assurance in relation thereto, go and enure to and upon the same uses and trusts, and be subject to the same conditions, charges, and incumbrances, as the land given on such exchange would have stood limited or been subject to in case such order had not been made; and the like order for a sale may be made by the Court in respect of the land taken in exchange for any land to which the application for a sale shall relate (where the order for exchange is made before sale), and the like proceedings had in relation to such sale, and the like conveyance or assignment may be made in respect of the land taken in exchange for the land or part thereof sold (where the order for exchange is made after sale, and before conveyance or assignment), and with the like consequences in the several cases aforesaid, as if applicable for a sale, or the sale (as the case may be) had been in respect of the land taken in exchange.

Partition may be made of lands where shares are not subject to be sold under this Act.

81. It shall be lawful for the Court, on the application of the owners of the several undivided shares (not subject to be sold under this Act, or as to which no proceedings for a sale under this Act shall be pending) of any land in *Ireland* who shall desire to effect a partition of such land, to make or cause to be made such inquiries as the Court may think fit for ascertaining whether such partition would be beneficial to the persons interested in such respective shares ; and in case the Court shall be of opinion that the proposed partition

21 & 22 Vict. c. 72.

would be beneficial and that the terms thereof are just and reasonable, it shall make an order under their seal for such partition accordingly; and in such order, or in a map or plan annexed thereto, shall be shown the part allotted in severalty in respect of each such undivided share, and the part so allotted in severalty in respect of such undivided share by such order of partition shall, without any conveyance or other assurance in relation thereto, go and enure to and upon the same use, and be subject to the same conditions, charges, and incumbrances as the undivided share in respect of which the same is so allotted would have stood limited or been subject to in case such order had not been made.

Exchanges may be made of lands not subject to be sold under this Act.

82. It shall be lawful for the Court, upon the application of the owner of lands in *Ireland* not subject to be sold under this Act, or as to which no proceedings for a sale under this Act shall be pending, who shall desire to effect an exchange of such lands, to make or cause to be made such inquiries as the Court may think fit for ascertaining whether such exchange would be beneficial to the persons interested in the respective lands; and in case the Court shall be of opinion that the proposed exchange would be beneficial, and that the terms thereof are just and reasonable, they shall make an order under their seal for such exchange accordingly; and in such order for exchange, or in a map or plan annexed thereto, shall be shown the lands given and taken in exchange respectively under such order; and the land taken upon such exchange under such order shall, without any conveyance or other assurance in relation thereto, go and enure to and upon the same uses and trusts, and be subject to the same conditions, charges, and incumbrances, as the land given upon such exchange would have stood limited or been subject to in case such order had not been made.

LANDLORD AND TENANT (IRELAND) ACT, 1870. (33 & 34 VICT., C. 46.)

33 & 34 Vict. c. 46.

General powers of Court in conduct of sale of land.

40. The Court shall have full power to apportion charges, rents, and covenants, and decide all questions whatsoever, which it may be necessary to decide for the purposes of this Act, and shall not be subject to be restrained in the due execution of their powers under this Act by the order of any Court.

Provisions as to married women.

60. A married woman entitled to her separate use, and not restrained from anticipation, shall for the purposes of this Act be deemed a *feme sole*, but wher any other married woman is desirous of making any application, giving any consent, or doing any act,

or becoming party to any proceeding under this Act, in relation to any holding, her husband's concurrence shall be required, and she shall be examined by the Civil Bill Court of the County where she may for the time being be, or of the county where the holding is situate, apart from her husband touching her knowledge of the nature and effect of the application or other act, and it shall be ascertained that she is acting freely and voluntarily.

33 & 34 Vict. c. 46.

61. Where any person who (if not under disability) might have made any application, given any consent, done any act, or been party to any proceeding in relation to any holding under this Act, is a minor, idiot, or lunatic, the guardian or committee of the estate respectively of such person may make such applications, give such consents, do such acts, and be party to such proceedings, as such person respectively, if free from disability, might have made, given, done, or been party to, and shall otherwise represent such person for the purposes of this Act; where there is no guardian or committee of the estate of any such person as aforesaid, being infant, idiot, or lunatic, or where any person the committee of whose estate if he were idiot or lunatic would be authorised to act for and represent such person under this part of this Act is of unsound mind or incapable of managing his affairs, but has not been found idiot or lunatic under an inquisition, it shall be lawful for the Civil Bill Court of the county in which the holding is situate to appoint a guardian of such person for the purpose of any proceedings under this part of this Act, and from time to time to change such guardian; and where such Civil Bill Court sees fit it may appoint a person to act as the next friend of a married woman for the purpose of any proceeding under this Act, and from time to time to remove or change such next friend.

Provisions as to other persons under disability.

GROUND GAME ACT, 1880.
(43 & 44 VICT., C. 47.)

43 & 44 Vict. c. 47.

1. Every occupier of land shall have, as incident to and inseparable from his occupation of the land, the right to kill and take ground game thereon, concurrently with any other person who may be entitled to kill and take ground game on the same land: Provided that the right conferred on the occupier by this Section shall be subject to the following limitations:

Occupier to have a right inseparable from his occupation to kill ground game concurrently with any other person entitled to kill the same on land in his occupation.

(1) The occupier shall kill and take ground game only by himself or by persons duly authorised by him in writing:

43 & 44 Vict. c. 47.

(*a.*) The occupier himself and one other person authorised in writing by such occupier shall be the only persons entitled under this Act to kill ground game with firearms;

(*b.*) No person shall be authorised by the occupier to kill or take ground game, except members of his household resident on the land in his occupation, persons in his ordinary service on such land, and any one other person bona fide employed by him for reward in the taking and destruction of ground game;

(*c.*) Every person so authorised by the occupier, on demand by any person having a concurrent right to take and kill the ground game on the land or any person authorised by him in writing to make such demand, shall produce to the person so demanding the document by which he is authorised, and in default he shall not be deemed to be an authorised person.

(2) A person shall not be deemed to be an occupier of land for the purposes of this Act by reason of his having a right of common over such lands; or by reason of an occupation for the purpose of grazing or pasturage of sheep, cattle, or horses for not more than nine months.

(3) In the case of moorlands, and uninclosed lands (not being arable lands), the occupier and the persons authorised by him shall exercise the rights conferred by this Section only from the eleventh day of December in one year till the thirty-first day of March in the next year, both inclusive; but this provision shall not apply to detached portions of moorlands or uninclosed lands adjoining arable lands, where such detached portions of moorlands or uninclosed lands are less than twenty-five acres in extent.

All agreements in contravention of right of occupier to destroy ground game void.

3. Every agreement, condition or arrangement which purports to divest or alienate the right of the occupier as declared, given, and reserved to him by this Act, or which gives to such occupier any advantage in consideration of his forbearing to exercise such right, or imposes upon him any disadvantage in consequence of his exercising such right, shall be void.

Saving Clause.

5. Where at the date of the passing of this Act the right to kill and take ground game on any land is vested by lease, contract of tenancy, or other contract bona fide made for valuable consideration in some person other than the occupier, the occupier shall not be entitled under this Act, until the determination of that contract, to kill and take ground game on such land. And in Scotland when the right to kill and take ground game is vested by operation of law or otherwise in some person other than the occupier, the

occupier shall not be entitled by virtue of this Act to kill or take ground game during the currency of any lease or contract of tenancy under which he holds at the passing of this Act, or during the currency of any contract made bona fide for valuable consideration before the passing of this Act whereby any other person is entitled to take and kill ground game on the land. 43 & 44 Vict. c. 47.

For the purposes of this Act, a tenancy from year to year, or a tenancy at will, shall be deemed to determine at the time when such tenancy would by law become determinable if notice or warning to determine the same were given at the date of the passing of this Act.

Nothing in this Act shall affect any special right of killing or taking ground game to which any person other than the landlord, lessor, or occupier may have become entitled before the passing of this Act by virtue of any franchise, charter, or Act of Parliament.

CONVEYANCING AND LAW OF PROPERTY ACT, 1881.
(44 & 45 VICT., C. 41.)

19.—(1) A mortgagee, where the mortgage is made by deed, shall, by virtue of this Act, have the following powers, to the like extent as if they had been in terms conferred by the mortgage deed, but not further (namely): 44 & 45 Vict. c. 41.

Powers incident to estate or interest of mortgagee.

(i.) A power, when the mortgage money has become due, to sell, or to concur with any other person in selling, the mortgaged property, or any part thereof, either subject to prior charges, or not, and either together or in lots, by public auction or by private contract, subject to such conditions respecting title, or evidence of title, or other matter, as he (the mortgagee) thinks fit, with power to vary any contract for sale, and to buy in at an auction, or to rescind any contract for sale, and to re-sell, without being answerable for any loss occasioned thereby; and

(ii.) A power, at any time after the date of the mortgage deed, to insure and keep insured against loss or damage by fire any building, or any effects or property of an insurable nature, whether affixed to the freehold or not, being or forming part of the mortgaged property, and the premiums paid for any such insurance shall be a charge on the mortgaged property, in addition to the mortgage money, and with the same priority, and with interest at the same rate, as the mortgage money; and

(iii.) A power, when the mortgage money has become due, to

44 & 45 Vict. c. 47.

appoint a receiver of the income of the mortgaged property, or of any part thereof; and

(iv.) A power, while the mortgagee is in possession, to cut and sell timber and other trees ripe for cutting, and not planted or left standing for shelter or ornament, or to contract for any such cutting and sale, to be completed within any time not exceeding twelve months from the making of the contract.

(2) The provisions of this Act relating to the foregoing powers, comprised either in this Section, or in any subsequent Section regulating the exercise of those powers, may be varied or extended by the mortgage deed, and, as so varied or extended, shall, as far as may be, operate in the like manner and with all the like incidents, effects, and consequences, as if such variations or extensions were contained in this Act.

(3) This Section applies only if and as far as a contrary intention is not expressed in the mortgage deed, and shall have effect subject to the terms of the mortgage deed and to the provisions therein contained.

(4) This Section applies only where the mortgage deed is executed after the commencement of this Act.

Regulation of exercise of power of sale.

20. A mortgagee shall not exercise the power of sale conferred by this Act unless and until—

(i.) Notice requiring payment of the mortgage deed has been served on the mortgagor or one of the several mortgagors, and default has been made in payment of the mortgage money, or of part thereof, for three months after such service; or

(ii.) Some interest under the mortgage is in arrear and unpaid for two months after becoming due; or

(iii.) There has been a breach of some provision contained in the mortgage deed or in this Act, and on the part of the mortgagor, or of some person concurring in making the mortgage, to be observed or performed, other than and besides a covenant for payment of the mortgage money or interest thereon.

Conveyance, receipt, &c., on sale.

21.—(1) A mortgagee exercising the power of sale conferred by this Act shall have power, by deed, to convey the property sold, for such estate and interest therein as is the subject of the mortgage, freed from all estates, interests, and rights to which the mortgage has priority, but subject to all estates, interests, and rights which have priority to the mortgage; except that, in the case of copyhold or customary land, the legal right to admittance shall not pass by a deed under this Section, unless the deed is sufficient otherwise by law, or is sufficient by custom, in that behalf.

(2) Where a conveyance is made in professed exercise of the

power of sale conferred by this Act, the title of the purchaser shall not be impeachable on the ground that no case had arisen to authorise the sale, or that due notice was not given, or that the power was otherwise improperly or irregularly exercised; but any person damnified by an unauthorised, or improper, or irregular exercise of the power shall have his remedy in damages against the person exercising the power. 44 & 45 Vict. c. 47.

(3) The money which is received by the mortgagee, arising from the sale, after discharge of prior incumbrances to which the sale is not made subject, if any, or after payment into Court under this Act of a sum to meet any prior incumbrance, shall be held by him in trust to be applied by him, first, in payment of all costs, charges, and expenses, properly incurred by him, as incident to the sale, or any attempted sale, or otherwise; and secondly, in discharge of the mortgage money, interest, and costs, and other money, if any, due under the mortgage; and the residue of the money so received shall be paid to the person entitled to the mortgaged property, or authorised to give receipts for the proceeds of the sale thereof.

(4) The power of sale conferred by this Act may be exercised by any person for the time being entitled to receive and give a discharge for the mortgage money.

(5) The power of sale conferred by this Act shall not affect the right of foreclosure.

(6) The mortgagee, his executors, administrators, or assigns, shall not be answerable for any involuntary loss happening in or about the exercise or execution of the power of sale conferred by this Act or of any trust connected therewith.

(7) At any time after the power of sale conferred by this Act has become exerciseable, the person entitled to exercise the same may demand and recover from any person, other than a person having in the mortgaged property an estate, interest, or right in priority to the mortgage, all the deeds and documents relating to the property, or to the title thereto, which a purchaser under the power of sale would be entitled to demand and recover from him.

Mortgagee's receipts, discharges, &c.

22.—(1) The receipt in writing of a mortgagee shall be a sufficient discharge for any money arising under the power of sale conferred by this Act, or for any money or securities comprised in his mortgage, or arising thereunder; and a person paying or transferring the same to the mortgagee shall not be concerned to inquire whether any money remains due under the mortgage.

(2) Money received by a mortgagee under his mortgage or

44 & 45 Vict. c. 47.

from the proceeds of securities comprised in his mortgage shall be applied in like manner as in this Act directed respecting money received by him arising from a sale under the power of sale conferred by this Act; but with this variation, that the costs, charges and expenses payable shall include the costs, charges and expenses properly incurred of recovering and receiving the money or securities, and of conversion of securities into money instead of those incident to sale.

LAND LAW (IRELAND) ACT, 1881.
(44 & 45 VICT., C. 49.)

44 & 45 Vict. c. 49.

Incidents of tenancy subject to statutory conditions.

5. A tenant shall not, during the continuance of a statutory term in his tenancy, be compelled to pay a higher rent than the rent payable at the commencement of such term, and shall not be compelled to quit the holding of which he is tenant except in consequence of the breach of some one or more of the conditions following (in this Act referred to as statutory conditions); that is to say,

(1) The tenant shall pay his rent at the appointed time:

(2) The tenant shall not, to the prejudice of the interest of the landlord in the holding, commit persistent waste by the dilapidation of buildings or, after notice has been given by the landlord to the tenant not to commit or to desist from the particular waste specified in such notice, by the deterioration of the soil:

(3) The tenant shall not, without the consent of his landlord in writing, subdivide his holding or sublet the same or any part thereof, or erect or suffer to be erected thereon, save as in this Act provided, any dwelling-house otherwise than in substitution for those already upon the holding at the time of the passing of this Act:

Agistment or the letting of land for the purpose of temporary depasturage, or the letting in conacre of land for the purpose of its being solely used and which shall be solely used for the growing of potatoes or other green crops, the land being properly manured, shall not be deemed a subletting for the purposes of this Act.

(4) The tenant shall not do any act whereby his tenancy becomes vested in an assignee in bankruptcy:

(5) The landlord, or any person or persons authorised by him in that behalf (he or they making reasonable amends and satisfaction for any damage to be done or occasioned thereby), shall have the right to enter upon the holding for any of the purposes following (that is to say):

Mining or taking minerals, or digging or searching for minerals. 44 & 45 Vict. c. 49.

Quarrying or taking stone, marble, gravel, sand, brick clay, fire clay, or slate;

Cutting or taking timber or turf, save timber and other trees planted by the tenant or his predecessors in title, or that may be necessary for ornament or shelter, and save also such turf as may be required for the use of the holding;

Opening or making roads, fences, drains, and water-courses;

Passing and re-passing to and from the seashore with or without horses and carriages for exercising any right of property or royal franchise belonging to the landlord;

Viewing or examining at reasonable times the state of the holding and all buildings or improvements thereon;

Hunting, shooting, fishing, or taking game, or fish, and if the landlord at the commencement of the statutory term so requires, then as between the landlord and tenant the right of shooting and taking game, and of fishing and taking fish shall belong exclusively to the landlord, subject to the provisions of the Ground Game Act, 1880, and the provisions of the Act twenty-seventh and twenty-eighth Victoria, chapter sixty-seven, shall extend where such right of shooting and taking game belongs exclusively to the landlord as though such exclusive right were reserved by the landlord to himself by deed. The word "game" for the purposes of this Sub-section means hares, rabbits, pheasants, partridges, quails, landrails, grouse, woodcock, snipe, wild duck, widgeon, and teal; 43 & 44 Vict. c. 47.

And the tenant shall not persistently obstruct the landlord, or any person or persons authorised by him in that behalf as aforesaid, in the exercise of any right conferred by this Sub-section.

During the continuance of a statutory term, all mines and minerals, coals and coal pits, subject to such rights in respect thereof as the tenant, under the contract of tenancy subsisting immediately before the commencement of the statutory term, was lawfully entitled to exercise, shall be deemed to be exclusively reserved to the landlord;

(6) The tenant shall not on his holding, without the consent of his landlord, open any house for the sale of intoxicating liquors.

44 & 45 Vict. c. 49.

Power to limited owner to sell holding and leave one-fourth of price of holding on mortgage.

25. A landlord of a holding, being a limited owner as defined by the twenty-sixth Section of the Landlord and Tenant (Ireland) Act, 1870, may by agreement, subject to the provisions of the Lands Clauses Consolidation Acts (except so much of the same as relates to the purchase of lands otherwise than by agreement), sell and convey such holding to the tenant, and may exercise to the same extent as if he were an absolute owner the power of permitting any sum not exceeding one-fourth in amount of the price which the tenant may pay as purchase money, to remain as a charge upon such holding secured by a mortgage, and in case of any advance being made by the Land Commission under the provisions of this Act to the tenant for the purchase of such holding, any such mortgage shall be subject to any charge in favour of the Land Commission for securing such advance; and any such mortgage and the principal moneys secured thereby shall be deemed to be part of the purchase money or compensation payable in respect of the purchase of such holding, and shall be dealt with accordingly in manner provided by the Lands Clauses Consolidation Acts, and in the construction of the said Acts for the purposes of this Section the expression "the special Act" shall be construed to mean this Act, and the expression "the promoters of the undertaking" shall be construed to mean the tenant.

Conditions annexed to holdings whilst subject to advances.

30.—(1) As between the Land Commission and the proprietor for the time being of any holding for the purchase of which the Land Commission have advanced money in pursuance of this part of this Act, the following conditions shall be imposed so long as such holding is subject to any charge in respect of an annuity in favour of the Land Commission; that is to say,

a. The holding shall not be subdivided or let by such proprietor without the consent of the Land Commission until the whole charge due to the Land Commission has been repaid:

b. Where the proprietor subdivides or lets any holding or part of a holding in contravention of the foregoing provisions of this Section, the Land Commission may cause the holding to be sold:

c. Where the title to the holding is divested from the proprietor by bankruptcy, the Land Commission may cause the holding to be sold:

d. Where, on the decease of the proprietor, the holding would by reason of any devise, bequest, intestacy, or otherwise, become subdivided, the Land Commission may require the holding to be sold within twelve months after the death of

the proprietor to some one person, and if default is made in selling the same, the Land Commission may cause the same to be sold. 44 & 45 Vict. c. 49.

(2) The Land Commission may cause any holding which under this Section they can cause to be sold, or any part of such holding, to be sold by public auction or private contract, and subject to any conditions of sale they may think expedient, and after such notice of the time, place, terms and conditions of such sale as they think just and expedient; and the Land Commission may convey such holding to the purchaser in like manner in all respects as if the holding had been vested in the Land Commission.

(3) The Land Commission shall apply the proceeds derived from such sale in payment, in the first instance, of all moneys due to them in respect of the holding, and in redemption *on the terms specified in Section fifty-one of the Landlord and Tenant (Ireland) Act*, 1870,* of any annuity charged on the said holding, in favour of the Commission, or of so much thereof as remains unpaid, and of all expenses incurred by the Land Commission in relation to such sale or otherwise with respect to the holding, *and shall pay the balance to the persons appearing to the Land Commission to be for the time being entitled to receive the same.**

Provided, that in respect of any holding which is subject to any charge in respect of an annuity in favour of the Board of Works, created in pursuance of the Landlord and Tenant (Ireland) Act, 1870, the said Board may, if they shall see fit, at any time during the continuance of such charge, upon the application of the person for the time being liable to pay the same, declare such holding to be subject to the conditions imposed by this Act on a holding subject to any charge in respect of an annuity in favour of the Land Commission; and thenceforth so much of the forty-fourth and forty-fifth Sections of the said Landlord and Tenant (Ireland) Act, 1870, as prohibits, without the consent of the Board, the alienation, assignment, subdivision, or sub-letting of a holding charged as in the said Section mentioned, and declares that in the event of such prohibition being contravened the holding shall be forfeited to the Board, and also so much of Section two of the Landlord and Tenant (Ireland) Act, 1872, as relates to the sale of holdings in lieu of forfeiture, shall, as to the holding in respect of which such a declaration has been made, be repealed, and the conditions imposed by this Act on a holding subject to any charge in respect of an annuity in favour of the Land Commission shall apply to the holding in respect whereof the said declaration has been made in the same manner as if the said conditions had been made applicable to the said last-mentioned

* The words in italics are repealed by the second Schedule to the Act of 1896.

44 & 45 Vict. c. 49.

holding by the said Acts of one thousand eight hundred and seventy, and one thousand eight hundred and seventy-two, and the said Board had thereby been authorised to enforce the said conditions.

Incorporation of certain provisions of 33 & 34 Vict. c. 46.

38. There shall be incorporated with this Act the following provisions of the Landlord and Tenant (Ireland) Act, 1870, as if the purposes therein referred to included the purposes of this Act; that is to say,

(1) Section twenty-three, relating to the powers of the Judge of the Civil Bill Court; and Section twenty-five, relating to the Court of Arbitration;

(2) Section forty, relating to the apportionment of rents, and in that Section rents shall include any rent payable to the Crown;

(3) Section fifty-nine, relating to administration on death of tenant;

(4) Section sixty, containing provisions as to married women;

(5) Section sixty-one, containing provisions as to other persons under disability;

(6) Section sixty-two, relating to additional sittings of Civil Bill Court;

(7) Section sixty-four, relating to power to appoint a substitute in Civil Bill Court if Judge cannot attend.

SETTLED LAND ACT, 1882.
(45 & 46 VICT., C. 38.)

45 & 46 Vict. c. 38.

Definition of settlement, tenant for life, &c.

2.—(1) Any deed, will, agreement for a settlement, or other agreement, covenant to surrender, copy of court roll, Act of Parliament, or other instrument, or any number of instruments, whether made or passed before or after, or partly before and partly after, the commencement of this Act, under or by virtue of which instrument or instruments any land, or any estate or interest in land, stands for the time being limited to or in trust for any persons by way of succession, creates or is for purposes of this Act a settlement, and is in this Act referred to as a settlement, or as the settlement, as the case requires.*

(2) An estate or interest in remainder or reversion not disposed of by a settlement, and reverting to the settlor or descending to the testator's heir, is for purposes of this Act an estate or interest coming to the settlor or heir under or by virtue of the settlement, and comprised in the subject of the settlement.

(3) Land, and any estate or interest therein, which is the subject

* This Sub-sect. must be read with Sect. 4 of the Settled Land Act, 1890 (*post* p. 207).

of a settlement, is for purposes of this Act settled land, and is, in relation to the settlement, referred to in this Act as the settled land. 45 & 46 Vict. c. 38.

(4) The determination of the question whether land is settled land, for purposes of this Act, or not, is governed by the state of facts, and the limitations of the settlement, at the time of the settlement taking effect.

(5) The person who is for the time being under a settlement, beneficially entitled to possession of settled land, for his life, is for purposes of this Act the tenant for life of that land, and the tenant for life under that settlement.

(6) If, in any case, there are two or more persons so entitled as tenants in common, or as joint tenants, or for other concurrent estates or interests, they together constitute the tenant for life for purposes of this Act.

(7) A person being tenant for life within the foregoing definitions shall be deemed to be such notwithstanding that, under the settlement or otherwise, the settled land, or his estate or interest therein, is incumbered or charged in any manner or to any extent.

(8) The persons, if any, who are for the time being, under a settlement, trustees with power of sale of settled land, or with power of consent to or approved of the exercise of such a power of sale, or if under a settlement there are no such trustees, then the persons, if any, for the time being, who are by the settlement declared to be trustees thereof for purposes of this Act, are for purposes of this Act trustees of the settlement.*

(9) Capital money arising under this Act, and receivable for the trusts and purposes of the settlement, is in this Act referred to as capital money arising under this Act.

(10) In this Act—

(i.) Land includes incorporeal hereditaments, also an undivided share in land; income includes rents and profits; and possession includes receipt of income:

3. A tenant for life— Powers to tenant for life to sell, &c.

(i.) May sell the settled land, or any part thereof, or any easement, right, or privilege of any kind, over or in relation to the same;

4.—(1) Every sale shall be made at the best price that can reasonably be obtained. Regulations respecting sale, enfranchisement, exchange and partition.

(3) A sale may be made in one lot or in several lots, and either by auction or by private contract.

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* This must be read with Sect. 16, Settled Land Act, 1890 (*post* p. 208).

45 & 46 Vict. c. 38.

Transfer of incumbrances on land sold, &c.

5. Where on a sale, exchange, or partition there is an incumbrance affecting land sold or given in exchange or on partition, the tenant for life, with the consent of the incumbrancer, may charge that incumbrancer on any other part of the settled land, whether already charged therewith or not, in exoneration of the part sold or so given, and, by conveyance of the fee simple, or other estate or interest the subject of the settlement, or by creation of a term of years in the settled land, or otherwise, make provision accordingly.

Concurrence in exercise of powers as to undivided share.

19. Where the settled land comprises an undivided share in land, or, under the settlement, the settled land has come to be held in undivided shares, the tenant for life of an undivided share may join or concur, in any manner and to any extent necessary or proper for any purpose of this Act, with any person entitled to or having power or right of disposition of or over another undivided share.

Capital money under Act; investment, &c. by trustees or Court.

21. Capital money arising under this Act, subject to payment of claims properly payable thereout, and to application thereof for any special authorised object for which the same was raised, shall, when received, be invested or otherwise applied wholly in one, or partly in one and partly in another or others, of the following modes (namely):*

(i.) In investment on Government securities, or on other securities on which the trustees of the settlement are by the settlement or by law authorised to invest trust money of the settlement, or on the security of the bonds, mortgages, or debentures, or in the purchase of the debenture stock, of any railway company in Great Britain or Ireland incorporated by special Act of Parliament, and having for ten years next before the date of investment paid a dividend on its ordinary stock or shares, with power to vary the investment into or for any other such securities:

(ii.) In discharge, purchase, or redemption of incumbrances affecting the inheritance of the settled land, or other the whole estate the subject of the settlement, or of land-tax, rent-charge in lieu of tithe, Crown rent, chief rent, or quit-rent, charged on or payable out of the settled land:

(iii.) In payment for any improvement authorised by this Act:

(iv.) In payment for equality of exchange or partition of settled land:

(v.) In purchase of the seignory of any part of the settled land, being freehold land, or in purchase of the fee simple of any part of the settled land, being copyhold or customary land:

* See Sects. 1 & 2, Settled Land Act, 1887, *post* p. 203.

(vi.) In purchase of the reversion or freehold in fee of any part of the settled land, being leasehold land held for years, or life, or years determinable on life: 45 & 46 Vict. c. 38.

(vii.) In purchase of land in fee simple, or of copyhold or customary land, or of leasehold land held for sixty years or more unexpired at the time of purchase, subject or not to any exception or reservation of or in respect of mines or minerals therein, or of or in respect of rights or powers relative to the working of mines or minerals therein, or in other land:

(viii.) In purchase, either in fee simple, or for a term of sixty years or more, of mines and minerals convenient to be held or worked with the settled land, or of any easement, right, or privilege convenient to be held with the settled land for mining or other purposes:

(ix.) In payment to any person becoming absolutely entitled or empowered to give an absolute discharge:

(x.) In payment of costs, charges, and expenses of or incidental to the exercise of any of the powers, or the execution of any of the provisions, of this Act:

(xi.) In any other mode in which money produced by the exercise of a power of sale in the settlement is applicable thereunder.

Regulations respecting investment, devolution, and income of securities, &c.

22.—(1) Capital money arising under this Act shall, in order to its being invested or applied as aforesaid, be paid either to the trustees of the settlement or into Court, at the option of the tenant for life, and shall be invested or applied by the trustees, or under the direction of the Court, as the case may be, accordingly.

(2) The investment or other application by the trustees shall be made according to the direction of the tenant for life, and in default thereof, according to the discretion of the trustees, but in the last-mentioned case subject to any consent required or direction given by the settlement with respect to the investment or other application by the trustees of trust money of the settlement; and any investment shall be in the names or under the control of the trustees.

(3) The investment or other application under the direction of the Court shall be made on the application of the tenant for life, or of the trustees.

(4) Any investment or other application shall not during the life of the tenant for life be altered without his consent.

(5) Capital money arising under this Act, while remaining uninvested or unapplied, and securities on which an investment of any such capital money is made, shall, for all purposes of disposition, transmission, and devolution, be considered as land, and

45 & 46 Vict. c. 38.

the same shall be held for and go to the same persons successively, in the same manner and for and on the same estates, interests, and trusts, as the land wherefrom the money arises would, if not disposed of, have been held and have gone under the settlement.

(6) The income of those securities shall be paid or applied as the income of that land, if not disposed of, would have been payable or applicable under the settlement.

(7) Those securities may be converted into money, which shall be capital money arising under this Act.

Power for tenant for life to enter into contracts.

31.—(1) A tenant for life—

(i.) May contract to make any sale, exchange, partition, mortgage, or charge; and

(ii.) May vary or rescind, with or without consideration, the contract, in the like cases and manner in which, if he were absolute owner of the settled land, he might lawfully vary or rescind the same, but so that the contract as varied be in conformity with this Act; and any such consideration, if paid in money, shall be capital money arising under this Act; and

(iii.) May contract to make any lease; and in making the lease may vary the terms, with or without consideration, but so that the lease be in conformity with this Act; and

(iv.) May accept a surrender of a contract for a lease, in like manner and on the like terms in and on which he might accept a surrender of a lease; and thereupon may make a new or other contract, or new or other contracts, for or relative to a lease or leases, in like manner and on the like terms in and on which he might make a new or other lease, or new or other leases, where a lease had been granted; and

(v.) May enter into a contract for or relating to the execution of any improvement authorised by this Act, and may vary or rescind the same; and

(vi.) May, in any other case, enter into a contract to do any act for carrying into effect any of the purposes of this Act, and may vary or rescind the same.

(2) Every contract shall be binding on and shall enure for the benefit of the settled land, and shall be enforceable against and by every successor in title for the time being of the tenant for life, and may be carried into effect by any such successor; but so that it may be varied or rescinded by any such successor, in the like case and manner, if any, as if it had been made by himself.

(3) The Court may, on the application of the tenant for life, or of any such successor, or of any person interested in any contract,

give directions respecting the enforcing, carrying into effect, varying or rescinding thereof. 45 & 46 Vict. c. 38.

(4) Any preliminary contract under this Act for or relating to a lease shall not form part of the title or evidence of the title of any person to the lease, or to the benefit thereof.

Appointment of trustees by Court.

38.—(1) If at any time there are no trustees of a settlement within the definition in this Act, or where in any other case it is expedient, for purposes of this Act, that new trustees of a settlement be appointed, the Court may, if it thinks fit, on the application of the tenant for life or of any other person having, under the settlement, an estate or interest in the settled land, in possession, remainder, or otherwise, or, in the case of an infant, of his testamentary or other guardian, or next friend, appoint fit persons to be trustees under the settlement for purposes of this Act.

(2) The persons so appointed, and the survivors and survivor of them, while continuing to be trustees or trustee, and, until the appointment of new trustees, the personal representatives or representative for the time being of the last surviving or continuing trustee, shall for purposes of this Act become and be the trustees or trustee of the settlement.*

Number of trustees to act.

39.—(1) Notwithstanding anything in this Act, capital money arising under this Act shall not be paid to fewer than two persons as trustees of a settlement, unless the settlement authorises the receipt of capital trust money of the settlement by one trustee.

Notice to trustees.

45.—(1) A tenant for life, when intending to make a sale, exchange, partition, lease, mortgage, or charge, shall give notice of his intention in that behalf to each of the trustees of the settlement, by posting registered letters, containing the notice, addressed to the trustees, severally, each at his usual or last known place of abode in the United Kingdom, and shall give like notice to the solicitor for the trustees, if any such solicitor is known to the tenant for life, by posting a registered letter containing the notice, addressed to the solicitor at his place of business in the United Kingdom, every letter under this Section being posted not less than one month before the making by the tenant for life of the sale, exchange, partition, lease, mortgage, or charge, or of a contract for the same.

(2) Provided that at the date of notice given the number of trustees shall not be less than two, unless a contrary intention is expressed in the settlement.

(3) A person dealing in good faith with the tenant for life is

* See also Sect. 60 Settled Land Act, 1882, Sect. 16 Settled Land Act, 1890, and Sect. 47 Trustee Act, 1893 (*post* pp. 196, 208 & 214).

45 & 46 Vict. c. 38.

not concerned to inquire respecting the giving of any such notice as is required by this Section.*

Prohibition or limitation against exercise of powers, void.

51.—(1) If in a settlement, will, assurance, or other instrument, executed or made before or after, or partly before and partly after, the commencement of this Act a provision is inserted purporting or attempting, by way of direction, declaration, or otherwise, to forbid a tenant for life to exercise any power under this Act, or attempting or tending, or intended, by a limitation, gift, or disposition over of settled land, or by a limitation, gift or disposition of other real or any personal property, or by the imposition of any condition, or by forfeiture, or in any other manner whatever, to prohibit or prevent him from exercising, or to induce him to abstain from exercising, or to put him into a position inconsistent with his exercising, any power under this Act, that provision, as far as it purports, or attempts, or tends, or is intended to have, or would or might have, the operation aforesaid, shall be deemed to be void.

(2) For the purposes of this Section an estate or interest limited to continue so long only as a person abstains from exercising any power shall be and take effect as an estate or interest to continue for the period for which it would continue if that person were to abstain from exercising the power, discharged from liability to determination or cesser by or on his exercising the same.

Provision against forfeiture.

52. Notwithstanding anything in a settlement, the exercise by the tenant for life of any power under this Act shall not occasion a forfeiture.

Tenant for life trustee for all parties interested.

53. A tenant for life shall, in exercising any power under this Act, have regard to the interests of all parties entitled under the settlement, and shall, in relation to the exercise thereof by him, be deemed to be in the position and to have the duties and liabilities of a trustee for those parties.

Exercise of powers; limitation of provisions, &c.

55.—(2) Where a power of sale, enfranchisement, exchange, partition, leasing, mortgaging, charging, or other power is exercised by a tenant for life, or by the trustees of a settlement, he and they may respectively execute, make, and do all deeds, instruments, and things necessary or proper in that behalf.†

Enumeration of other limited owners, to have powers of tenant for life.

58.—(1) Each person as follows shall, when the estate or interest of each of them is in possession, have the powers of a tenant for life under this Act, as if each of them were a tenant for life as defined in this Act (namely):

(i.) A tenant in tail, including a tenant in tail who is by Act

* This Section must be read with Section 5, Settled Land Act, 1884 (*post* p. 199).

† See also Section 6, Settled Land Act, 1890 (*post* p. 207).

of Parliament restrained from barring or defeating his estate tail, and although the reversion is in the Crown, and so that the exercise by him of his powers under this Act shall bind the Crown, but not including such a tenant in tail where the land in respect whereof he is so restrained was purchased with money provided by Parliament in consideration of public services: 45 & 46 Vict. c. 38.

(ii.) A tenant in fee simple, with an executory limitation, gift, or disposition over, on failure of his issue, or in any other event:

(iii.) A person entitled to a base fee, although the reversion is in the Crown, and so that the exercise by him of his powers under this Act shall bind the Crown:

(iv.) A tenant for years determinable on life, not holding merely under a lease at a rent:

(v.) A tenant for the life of another, not holding merely under a lease at a rent:

(vi.) A tenant for his own or any other life, or for years determinable on life, whose estate is liable to cease in any event during that life, whether by expiration of the estate, or by conditional limitation, or otherwise, or to be defeated by an executory limitation, gift, or disposition over, or is subject to a trust for accumulation of income for payment of debts or other purpose:

(vii.) A tenant in tail after possibility of issue extinct:

(viii.) A tenant by the curtesy: *

(ix.) A person entitled to the income of land under a trust or direction for payment thereof to him during his own or any other life, whether subject to expenses of management or not, or until sale of the land, or until forfeiture of his interest therein on bankruptcy or other event.

(2) In every such case, the provisions of this Act referring to a tenant for life, either as conferring powers on him or otherwise, and to a settlement, and to settled land, shall extend to each of the persons aforesaid, and to the instrument under which his estate or interest arises, and to the land therein comprised.

(3) In any such case any reference in this Act to death as regards a tenant for life shall, where necessary, be deemed to refer to the determination by death or otherwise of such estate or interest as last aforesaid.

59. Where a person, who is in his own right seised of or entitled in possession to land, is an infant, then for purposes of this Act the land is settled land, and the infant shall be deemed tenant for life thereof. Infant absolutely entitled to be tenant for life.

* See Sect. 8 Settled Land Act, 1884 (*post*, p. 201).

45 & 46 Vict. c. 38.

Tenant for life, infant.

60. Where a tenant for life, or a person having the powers of a tenant for life under this Act, is an infant, or an infant would, if he were of full age, be a tenant for life, or have the powers of a tenant for life under this Act, the powers of a tenant for life under this Act may be exercised on his behalf by the trustees of the settlement, and if there are none, then by such person and in such manner as the Court, on the application of a testamentary or other guardian or next friend of the infant, either generally or in a particular instance, orders.

Married woman, how to be affected.

61.—(1) The foregoing provisions of this Act do not apply in the case of a married woman.

(2) Where a married woman who, if she had not been a married woman, would have been a tenant for life or would have had the powers of a tenant for life under the foregoing provisions of this Act, is entitled for her separate use, or is entitled under any statute passed or to be passed, for her separate property, or as a *feme sole*, then she, without her husband, shall have the powers of a tenant for life under this Act.

(3) Where she is entitled otherwise than as aforesaid then she and her husband together shall have the powers of a tenant for life under this Act.

(4) The provisions of this Act referring to a tenant for life and a settlement and settled land shall extend to the married woman without her husband, or to her and her husband together, as the case may require, and to the instrument under which her estate or interest arises, and to the land therein comprised.

(5) The married woman may execute, make, and do all deeds, instruments, and things necessary or proper for giving effect to the provisions of this Section.

(6) A restraint on anticipation in the settlement shall not prevent the exercise by her of any power under this Act.

Tenant for life lunatic.

62.—Where a tenant for life, or a person having the powers of a tenant for life under this Act, is a lunatic, so found by inquisition, the committee of his estate may, in his name and on his behalf, under an order of the Lord Chancellor, or other person intrusted by virtue of the Queen's Sign Manual with the care and commitment of the custody of the persons and estates of lunatics, exercise the powers of a tenant for life under this Act; and the order may be made on the petition of any person interested in the settled land, or of the committee of the estate.

Provision for case of trust to sell and re-invest in land.

63.—(1) Any land, or any estate or interest in land, which under or by virtue of any deed, will, or agreement, covenant to surrender, copy of court roll, Act of Parliament, or other instru-

ment or any number of instruments, whether made or passed before or after, or partly before and partly after, the commencement of this Act, is subject to a trust or direction for sale of that land, estate or interest, and for the application or disposal of the money to arise from the sale, or the income of that money, or the income of the land until sale, or any part of that money or income, for the benefit of any person for his life, or any other limited period, or for the benefit of two or more persons concurrently for any limited period, and whether absolutely, or subject to a trust for accumulation of income for payment of debts or other purpose, or to any other restriction, shall be deemed to be settled land, and the instrument or instruments under which the trust arises shall be deemed to be a settlement; and the person for the time being beneficially entitled to the income of the land, estate, or interest aforesaid, until sale, whether absolutely or subject as aforesaid, shall be deemed to be tenant for life thereof; or if two or more persons are so entitled concurrently, then those persons shall be deemed to constitute together the tenant for life thereof; and the persons, if any, who are for the time being under the settlement trustees for sale of the settled land, or having power of consent to, or approval of, or control over the sale, or if under the settlement there are no such trustees, then the persons, if any, for the time being, who are by the settlement declared to be trustees thereof for purposes of this Act are for purposes of this Act trustees of the settlement.* 45 & 46 Vict. c. 38.

(2) In every such case the provisions of this Act referring to a tenant for life, and to a settlement and to settled land, shall extend to the person or persons aforesaid, and to the instrument or instruments under which his or their estate or interest arises, and to the land therein comprised, subject and except as in this Section provided (that is to say):

(i.) Any reference in this Act to the predecessors or successors in title of the tenant for life, or to the remainderman, or reversioners or other persons interested in the settled land shall be deemed to refer to the persons interested in succession or otherwise in the money to arise from sale of the land, or the income of that money, or the income of the land, until sale (as the case may require).

(ii.) Capital money arising under this Act from the settled land shall not be applied in the purchase of land unless such application is authorised by the settlement in the case of capital money arising thereunder from sales or other dispositions of the settled land, but

* See Sects. 6 and 7 of the Settled Land Act, 1884 (*post* pp. 199 and 200).

45 & 46 Vict. c. 38.

may, in addition to any other mode of application authorised by this Act, be applied in any mode in which capital money arising under the settlement from any such sale or other disposition is applicable thereunder, subject to any consent required or direction given by the settlement with respect to the application of trust money of the settlement.

(iii.) Capital money arising under this Act from the settled land and the securities in which the same is invested, shall not for any purpose of disposition, transmission, or devolution, be considered as land unless the same would, if arising under the settlement from a sale or disposition of the settled land, have been so considered, and the same shall be held in trust for and shall go to the same persons successively in the same manner, and for and on the same estates, interests, and trusts as the same would have gone and been held if arising under the settlement from a sale or disposition of the settled land, and the income of such capital money and securities shall be paid or applied accordingly.

(iv.) Land of whatever tenure acquired under this Act by purchase, or in exchange, or on partition, shall be conveyed to and vested in the trustees of the settlement, on the trusts, and subject to the powers and provisions which, under the settlement or by reason of the exercise of any power of appointment or charging therein contained, are subsisting with respect to the settled land, or would be so subsisting if the same had not been sold, or as near thereto as circumstances permit, but so as not to increase or multiply charges or powers of charging.

Modifications respecting Ireland.

65.—(1) In the application of this Act to Ireland the foregoing provisions shall be modified as in this Section provided.

(2) The Court shall be Her Majesty's High Court of Justice in Ireland.

(3) All matters within the jurisdiction of that Court shall, subject to the Acts regulating that Court, be assigned to the Chancery Division of that Court; but General Rules under this Act for Ireland may direct that those matters or any of them be assigned to the Land Judges of that Division.

(4) Any deed inrolled under this Act shall be inrolled in the Record and Writ Office of that Division.

(5) General Rules for purposes of this Act for Ireland shall be deemed Rules of Court within the Supreme Court of Judicature Act (Ireland), 1877, and may be made accordingly, at any time after the passing of this Act, to take effect on or after the commencement of this Act.

40 & 41 Vict. c. 57.

(6) The several Civil Bill Courts in Ireland shall, in addition to

the jurisdiction possessed by them independently of this Act, have and exercise the power and authority exerciseable by the Court under this Act, in all proceedings where the property, the subject of the proceedings, does not exceed in capital value five hundred pounds, or in annual value thirty pounds. 45 & 46 Vict. c. 38.

(7) The provisions of Part II. of the County Officers and Courts (Ireland) Act, 1877, relative to the equitable jurisdiction of the Civil Bill Courts, shall apply to the jurisdiction exciseable by those Courts under this Act. 40 & 41 Vict. c. 56.

(8) Rules and Orders for purposes of this Act, as far as it relates to the Civil Bill Courts, may be made at any time after the passing of this Act to take effect on or after the commencement of this Act in manner prescribed by Section seventy-nine of the County Officers and Courts (Ireland) Act, 1877.

(9) The Commissioners of Public Works in Ireland shall be substituted for the Land Commissioners.

(10) The term for which a lease other than a building or mining lease may be granted shall be not exceeding thirty-five years.

SETTLED LAND ACT, 1884.
(47 & 48 VICT. C. 18.)

5.—(1) The notice required by Section forty-five of the Act of 1882 of intention to make a sale, exchange, partition, or lease may be notice of a general intention in that behalf. 47 & 48 Vict. c. 18.

Notice under 45 & 46 Vict. c. 38, s. 45, may, as to a sale, exchange, partition, or lease be general.

(2) The tenant for life is, upon request by a trustee of the settlement, to furnish to him such particulars and information as may reasonably be required by him from time to time with reference to sales, exchanges, partitions, or leases effected, or in progress, or immediately intended.

(3) Any trustee, by writing under his hand, may waive notice either in any particular case, or generally, and may accept less than one month's notice.

(4) This Section applies to a notice given before, as well as to a notice given after, the passing of this Act.

(5) Provided that a notice, to the sufficiency of which objection has been taken before the passing of this Act, is not made sufficient by virtue of this Act.

6.—(1) In the case of a settlement within the meaning of Section sixty-three of the Act of 1882, any consent not required by the terms of the settlement is not by force of anything contained in that Act to

As to consents of tenants for life.

47 & 48. Vict. c. 18.

be deemed necessary to enable the trustees of the settlement, or any other person, to execute any of the trusts or powers created by the settlement.

(2) In the case of every other settlement, not within the meaning of Section sixty-three of the Act of 1882, where two or more persons together constitute the tenant for life for the purposes of that Act, then, notwithstanding anything contained in Sub-section (2) of Section fifty-six of that Act, requiring the consent of all those persons, the consent of one only of those persons is by force of that Section to be deemed necessary to the exercise by the trustees of the settlement, or by any other person, of any power conferred by the settlement exercisable for any purpose provided for in that Act.

(3) This Section applies to dealings before, as well as after, the passing of this Act.

Powers given by Section 63 to be exercised only with leave of the Court.

7. With respect to the powers conferred by Section sixty-three of the Act of 1882, the following provisions are to have effect:—

(i.) Those powers are not to be exercised without the leave of the Court.

(ii.) The Court may by order, in any case in which it thinks fit, give leave to exercise all or any of those powers, and the order is to name the person or persons to whom leave is given.

(iii.) The Court may from time to time rescind, or vary, any order made under this Section, or may make any new or further order.

(iv.) So long as an order under this Section is in force, neither the trustees of the settlement, nor any person other than a person having the leave, shall execute any trust or power created by the settlement, for any purpose for which leave is by the order given to exercise a power conferred by the Act of 1882.

(v.) An order under this Section may be registered and re-registered, as a *lis pendens*, against the trustees of the settlement named in the order, describing them on the register as "Trustees for the purposes of the Settled Land Act, 1882."

(vi.) Any person dealing with the trustees from time to time, or with any other person acting under the trusts or powers of the settlement, is not to be affected by an order under this Section, unless and until the order is duly registered, and when necessary re-registered as a *lis pendens*.

(vii.) An application to the Court under this Section may be made by the tenant for life, or by the persons who together constitute the tenant for life, within the meaning of Section sixty-three of the Act of 1882.

(viii.) An application to rescind or vary an order, or to make any new or further order under this Section, may be made also by the

trustees of the settlement, or by any person beneficially interested under the settlement. 47 & 48 Vict. c. 18.

(ix.) The person or persons to whom leave is given by an order under this Section shall be deemed the proper person or persons to exercise the powers conferred by Section sixty-three of the Act of 1882, and shall have, and may exercise those powers accordingly.

(x.) This Section is not to affect any dealing which has taken place before the passing of this Act, under any trust or power to which this Section applies.

8. For the purposes of the Act of 1882 the estate of a tenant by the curtesy is to be deemed an estate arising under a settlement made by his wife. Curtesy to be deemed to arise under settlement.

PURCHASE OF LAND (IRELAND) ACT, 1885.
(48 & 49 VICT. C. 73.)

8. When a holding has been sold by the Land Commission to a tenant or other person, also when a holding has been sold by a landlord to a tenant, and it has been agreed between the Land Commission and the landlord and the tenant that such sale shall be carried into effect by means of a vesting order of the Land Commission under this Act, it shall be lawful for the Land Commission, if they think fit, after due investigation of title and being satisfied therewith, to make an order under their seal and signed by a Commissioner vesting the holding, or the interests of any person or of the Land Commission in such holding, in the purchaser, freed from all charges if the vesting order so declares, or subject to such charges as may be specified in such order; or, if the vesting order so declares, subject to such charges as may lawfully affect such holding. 48 & 49 Vict. c. 73. Vesting order in lieu of conveyance.

Every order purporting to vest a holding or interest in a purchaser which purports to be made by the Land Commission in exercise of the powers conferred on them by this Act shall be binding upon all persons claiming any estate or interest in the land comprised in the holding, including Her Majesty, her heirs and successors, and shall be as effectual in all respects, save as hereinafter provided, as if it were a conveyance or assignment executed by one of the Land Judges of the Chancery Division of the High Court of Justice in Ireland under the Landed Estates Court Act: Provided, that where the purchaser of a holding is also tenant of the holding the interest vested in him by such order shall, subject to any charges, rights, or easement set out in the order, be deemed to be a graft upon the previous interest of the tenant in the holding, and be subject to any rights or equities arising from its being such graft.

48 & 49 Vict. c. 73.

The enactments of this Section relative to the operation and effect of a vesting order purporting to vest a holding, shall apply to an order purporting to vest an interest in a holding, so far as relates to such interest.

Charges and rights subject to which the sale may be made.

9.—(3) The provisions of the sixty-second Section of the Landed Estates Court Act relative to tithe rent-charge, quit rent, crown rent, and charges in favour of the Commissioners of Public Works not being prejudiced or affected by the conveyances therein mentioned, and relative to the redemption of such quit rent, crown rent, and charges, and relative to the notice to be given to the Commissioners of Her Majesty's Woods, Forests and Land Revenues, shall apply to vesting orders under this Act.

(5) In the case of a sale by a landlord to a tenant, where it is agreed that the sale shall be carried into effect by a vesting order of the Land Commission, such vesting order may, notwithstanding anything hereinbefore contained, be made at any time after the application for such vesting order has been made to the Court, and same may be made though the landlord is only tenant for life, or has the powers of a tenant for life, and whether or not the holding, either solely or in common with other lands, is subject to any incumbrance or annual charge, and the fact of such incumbrance or annual charge affecting only a partial interest in the estate sold, such as a tenancy for life or lesser interest, shall not affect the right to make such vesting order, but the purchase money shall in all cases where the Court shall think fit be paid into Court to abide the further order of the Court, and shall, for all purposes as regards the rights or claims of any person to or against the estate sold, represent such estate, and unless and so far as the vesting order shall otherwise declare, the rights and claims of all persons in respect of the estate sold, or any incumbrance or annual charge thereon, shall, from the date of such vesting order, be transferred to the purchase money, and the purchaser shall be wholly freed from any liability or claim in respect thereof.

SETTLED LAND ACT, 1887.
(50 & 51 VICT. C. 30.)

50 & 51 Vict. c. 30.

Amendment of s. 21 of the Settled Land Act, 1882.

1. Where any improvement of a kind authorised by the Act of 1882 has been or may be made either before or after the passing of this Act, and a rent-charge, whether temporary or perpetual, has been or may be created in pursuance of any Act of Parliament, with the object of paying off any moneys advanced for the purpose of defraying

the expenses of such improvement, any capital money expended in redeeming such rent-charge, or otherwise providing for the payment thereof, shall be deemed to be applied in payment for an improvement authorised by the Act of 1882. 50 & 51 Vict. c. 30.

2. Any improvement in payment for which capital money is applied or deemed to be applied under the provisions of the preceding Section shall be deemed to be an improvement within the meaning of Section twenty-eight of the Act of 1882, and the provisions of such last-mentioned Section shall, so far as applicable, be deemed to apply to such improvement. Section 28 of Settled Land Act, 1882, to apply to improvements within preceding Section.

LAND LAW (IRELAND) ACT, 1887.
(50 & 51 VICT. C. 33.)

14. When an agreement has been made between a landlord and a tenant for the sale of a holding, and the Land Commission are satisfied that the landlord and the tenant are *primâ facie* entitled to carry such agreement into effect, and the Land Commission have agreed to make an advance under the Land Law (Ireland) Acts, the following enactments for facilitating the completion of the sale shall apply:— 50 & 51 Vict. c. 33. Expediting proceedings on sales.

(1) The Land Commission may, if they think fit, pay into the Bank of Ireland the whole or any part of the amount of the advance to such credit as they may direct, and in any case where the tenant provides any portion of the purchase money may cause the same to be paid to the like credit, and may by order declare that the claims of all persons (except the tenant and persons claiming under him) who are interested in the land sold, whether as incumbrancers or otherwise, shall attach to the purchase money of such land in like manner as immediately before the sale they attached to the land, and shall cease to be of any validity as against the land, and subject as in this Act mentioned shall be discharged or redeemed out of the purchase money, and the Land Commission shall determine the rights and priorities of the landlord and such other persons, and shall distribute the purchase money in accordance with such rights and priorities. Where the purchase money or any part of it is not immediately distributable, or the persons entitled thereto are not ascertained, or where from any other cause the Land Commission think it expedient for the protection of the rights of the persons interested, then the Land Commission shall, as the case requires, either retain the same under their control or deal with the same in the manner provided by the Settled Land Act, 1882, with respect to 45 & 46 Vict. c. 38.

50 & 51 Vict. c. 33.

capital money arising under that Act, and may by order declare the trusts affecting such money or share, so far as the Land Commission have ascertained the same, or state the facts or matters found by them in relation to the rights and interests therein; and the Land Commission may from time to time make such orders in relation to any purchase money or share and the investment or application thereof, or the payment thereof, or the annual income thereof to the persons interested, as the circumstances of the case may require.

(2) The Land Commission may at or after the time of making such order as above mentioned, and notwithstanding that it may have been agreed that the sale shall be carried into effect by means of a conveyance, exercise the powers contained in Section nine, Sub-section five, of the Purchase of Land (Ireland) Act, 1885.

(3) Any person in occupation of and paying rent for a holding which is held under a contract of tenancy, shall have power to enter into an agreement for the purchase thereof. Where a holding shall be conveyed to or vested in any such person, the interest thereby assigned to him shall be deemed to be a graft upon the previous interest of the tenant in such holding, and shall be subject to any rights or equities arising from its being such graft.

Crown rents, quit rents, and tithe rent-charge

15.—(1) When any land sold under the Land Law (Ireland) Acts is subject with other lands to any crown rent, quit rent, or tithe rent-charge, the Land Commission may, if they think it expedient, apportion such crown rent, quit rent, or tithe rent-charge, between the land sold and the other land, in such manner as to them seems equitable; and when any such land is subject with other lands to any land improvement charge or drainage charge, the Commissioners of Public Works, on the requisition of the Land Commission, may apportion the same between the land sold and other lands, and may issue a certificate setting forth such apportionment.

Upon any apportionment being made under this Section, such portion of the rent or rent-charge or charge as is apportioned to the land sold shall alone be deemed to be the crown rent, quit rent, tithe rent-charge, or drainage charge chargeable on the land sold.

(2) The Land Commission may, if they think it expedient, order the redemption of any crown rent, quit rent, or tithe rent-charge, or any apportioned part thereof, at a price to be fixed by the Land Commission. They may also, if they think it expedient, order the redemption of any land improvement charge or drainage charge or apportioned part thereof in accordance with the scale fixed by the statutes in that behalf.

(3) No such apportionment or redemption of crown or quit rent shall be made without the previous consent of the Commissioners of

Her Majesty's Woods, Forests, and Land Revenues; and no such apportionment or redemption of land improvement charge or of drainage charge payable to the Commissioners of Public Works, or redemption of tithe rent-charge payable to the Land Commission, shall be made without the previous consent of the Commissioners of the Treasury. 50 & 51 Vict. c. 33.

For the purpose of this Section, the Commissioners of the Treasury may from time to time make rules for regulating the mode of giving consents, and the terms upon which consents shall be given.

When any such land sold is subject with other lands to any incumbrance as defined by this Act, the Land Commission may, if they think it expedient, require the persons entitled to such incumbrance to accept the money advanced for the purchase of the land sold in part discharge of the incumbrance, and the Land Commission may, if they think it expedient and just so to do, by order declare the land sold to be discharged of all incumbrances and upon the making of such order the incumbrances therein mentioned shall cease to be a charge upon such land.

Apportionment and redemption of annuities and charges.

16.—(1) When any land sold under the Land Law (Ireland) Acts is subject with other lands to any annuity or rent-charge, the Land Commission may, if they think it expedient, by order apportion the same as between such land and the other lands subject thereto, and thereupon such part of the annuity or rent-charge as is apportioned on the land to be sold shall alone be deemed to be the annuity or rent-charge chargeable on such land.

(2) When the Land Commission exercise the power of apportionment conferred on them by this Section, and also when the Land Commission exercise the power of apportionment of rent conferred on them by the seventy-second Section of the Landed Estates Court Act as extended by the tenth Section of the Purchase of Land (Ireland) Act, 1885, then the part of an annuity, rent-charge, or rent which is apportioned upon any land sold shall cease to be a charge upon the land, and shall be transferred to the purchase-money thereof; the last-mentioned power of apportionment may be exercised in any case, notwithstanding that it may have been agreed that the sale shall be carried into effect by means of a conveyance.

(3) The Land Commission shall, on the application of the person entitled to a part of an annuity, rent-charge, or rent, which part shall have been apportioned by them upon land sold, and may, if they think it expedient, without such application, order the redemption of such annuity, rent-charge, or rent, or of an apportioned part thereof, and may, notwithstanding the fact that no apportionment has been made, order the redemption of any annuity, rent-charge, or

50 & 51 Vict. c. 33.

rent affecting land sold, at a price to be fixed by agreement between the parties, or to be determined by the Land Commission, *if the parties consent that the Land Commission should determine it, or if they do not consent, then to be settled by arbitration in the manner provided by the twenty-fifth Section and the schedule of the Landlord and Tenant (Ireland) Act, 1870; the award of the Court of Arbitrators shall be recorded in the Court of the Land Commission, and the provisions relating to the Civil Bill Court, in the said schedule contained, shall, for the purposes of this Section, be taken to apply to the Land Commission.**

A person who is tenant for life of an estate in any annuity, rent-charge, or rent, to which this Section applies, or who has, as respects such annuity, rent-charge, or rent, the power of a tenant for life within the meaning of the Settled Land Act, 1882, shall be deemed to be a person entitled thereto; and if such annuity, rent-charge, or rent is redeemed under this Section, the purchase money shall be dealt with as capital moneys arising under the said Act.

Priority of charge for advance.

20. Every annuity payable in respect of any advance made either before or after the passing of this Act to enable a tenant to purchase a holding under the Land Law (Ireland) Acts, shall be a charge on the holding subject thereto, having priority over all existing and future estates, interests, and incumbrances created either by the landlord or the tenant, or their respective predecessors in title, and whether before or after the making of the advance, with the exception of quit rent and other charges incident to the tenure, rent-charges in lieu of tithes, and any charges created under any Acts authorising advance of public money, or under any Act creating charges in respect of improvements on lands and passed before this Act, and with the exception also (in cases where lands are subject to a fee-farm rent or held under a lease reserving rent) of such fee-farm rent or rent reserved as aforesaid. Every such annuity payable to the Land Commission shall be payable in equal half-yearly payments on the first day of May and the first day of November in each year. The first half-yearly payment of any such annuity shall, where the advance is not made on one of the said gale days, be due and paid on the second of such gale days after the date of the advance, and together with such first half-yearly payment there shall be due and paid an additional sum for interest on the advance at the rate of three and one-eighth per centum per annum from the date of the advance until the first gale day next after that date. A certificate purporting to be under the seal of the Land Commission, or the Commissioners

* The words in italics have been repealed by the Sect. 103 of the Act of 1903 (*ante* p. 168).

of Public Works, as the case may be, shall be evidence that the amount of any annuity or arrears of annuity stated therein to be due under any of the said Acts in respect of any holding named therein, is due to the Land Commission or the Commissioners of Public Works, as the case may be, in respect of such holding.

50 & 51 Vict. c. 33.

SETTLED LAND ACT, 1890.
(53 & 54 VICT. C. 69.)

53 & 54 Vict. c. 69.

4.—(1) Every instrument whereby a tenant for life, in consideration of marriage or as part or by way of any family arrangement, not being a security for payment of money advanced, makes an assignment of or creates a charge upon his estate or interest under the settlement is to be deemed one of the instruments creating the settlement, and not an instrument vesting in any person any right as assignee for value within the meaning or operation of Section fifty of the Act of 1882.

Instrument in consideration of marriage, &c., to be part of the settlement.

45 & 46 Vict. c. 38.

(2) This Section is to apply and have effect with respect to every disposition before as well as after the passing of this Act, unless inconsistent with the nature or terms of the disposition.

6. A tenant for life may make any conveyance which is necessary or proper for giving effect to a contract entered into by a predecessor in title, and which if made by such predecessor would have been valid as against his successors in title.

Power to complete predecessor's contract.

10.—(2) Notwithstanding anything contained in the Act of 1882, the principal mansion house (if any) on any settled land, and the pleasure grounds and park and lands (if any) usually occupied therewith, shall not be sold, exchanged, or leased by the tenant for life without the consent of the trustees of the settlement or an order of the Court.

Restriction on sale of mansion.

(3) Where a house is usually occupied as a farm-house, or where the site of any house and the pleasure grounds and park and lands (if any) usually occupied therewith do not together exceed twenty-five acres in extent, the house is not to be deemed a principal mansion house within the meaning of this Section.

13. Improvements authorised by the Act of 1882 shall include the following; namely,

(i.) Bridges;

(ii.) Making any additions to or alterations in buildings reasonably necessary or proper to enable the same to be let;

(iii.) Erection of buildings in substitution for buildings within an urban sanitary district taken by a local or other public authority,

53 & 54 Vict. c. 69.

or for buildings taken under compulsory powers, but so that no more money be expended than the amount received for the buildings taken and the site thereof;

(iv.) The rebuilding of the principal mansion-house on the settled land: Provided that the sum to be applied under this Sub-section shall not exceed one-half of the annual rental of the settled land.

Trustees for the purposes of the Act.

16. Where there are for the time being no trustees of the settlement within the meaning and for the purposes of the Act of 1882, then the following persons shall, for the purposes of the Settled Land Acts, 1882 to 1890, be trustees of the settlement; namely,

(i.) The persons (if any) who are for the time being under the settlement trustees, with power of or upon trust for sale of any other land comprised in the settlement and subject to the same limitations as the land to be sold, or with power of consent to or approval of the exercise of such a power of sale, or, if there be no such persons, then

(ii.) The persons (if any) who are for the time being under the settlement trustees with future power of sale, or under a future trust for sale of the land to be sold, or with power of consent to or approval of the exercise of such a future power of sale, and whether the power or trust takes effect in all events or not.

PURCHASE OF LAND (IRELAND) ACT, 1891.
(54 & 55 VICT. C. 48.)

54 & 55 Vict. c. 48.

Redemption of tithe rent-charge under. 50 & 51 Vict. c. 33.

20. Where any tithe rent-charge, annuity, rent-charge, or rent, or any apportioned part thereof, is ordered to be redeemed pursuant to the provisions of the Land Law (Ireland) Act, 1887, the Land Commission shall have the same powers in respect of the redemption-money thereof as are contained in Sub-section one of Section fourteen of the said Act, and the provisions of Section sixteen of the said Act shall apply to any superior rent affecting such tithe rent-charge or rent, or to any fee-farm grant or lease reserving the same.

LOCAL REGISTRATION OF TITLE (IRELAND) ACT, 1891.
(54 & 55 VICT. C. 66.)

Part IV.

54 & 55 Vict. c. 66.

Application of Part IV.

83. This part of this Act shall apply to freehold registered land which shall have been at any time sold and conveyed to or vested in a purchaser under any of the provisions of the Purchase of

Land (Ireland) Acts, and to no other land. For the purposes of this part of this Act "freehold registered land" includes leasehold registered land which is not of chattel tenure. 54 & 55 Vict. c. 66.

Devolution of legal interest on death in freehold registered land sold under Purchase Acts.

84.—(1) Where any such land is vested in any person without right of survivorship to any other person, it shall, on his death, notwithstanding any testamentary disposition, devolve to and become vested in his personal representatives or representative from time to time as if it were a chattel real vesting in them or him.

(2) This Section shall apply to any such land over which a person executes by will a general power of appointment as if it were land vested in him solely.

(3) On the death either of a sole registered full owner or of the survivor of several registered full owners of any such land not being registered as tenants in common, the personal representatives of the sole owner or survivor shall alone be recognised by the registering authority as having any right in respect of the land, and shall have the same powers of dealing with the land, and any registered dispositions by them shall have the same effect as if they were the registered owners of the land.

(4) Where any such land is settled by the will of a testator dying after the commencement of this Act and there are no trustees of the settlement, the executors proving the will shall for the purposes of this Act be deemed to be the trustees of the settlement unless and until trustees of the settlement are appointed.

(5) Probate and letters of administration may be granted in respect of such land only, although there is no personal estate.

(6) Section thirty of the Conveyancing and Law of Property Act, 1881, shall not apply to any such land, without prejudice to anything done or any right acquired thereunder. 44 & 45 Vict. c. 41.

(7) This Section applies only in cases of death after the commencement of this Act.

Succession to beneficial interest in such land on intestacy.

85.—(1) On the death of a person intestate as to any such land, the beneficial interest therein shall devolve upon and, subject to the provisions of this Act, be divisible among the same persons as if it were personal estate as to which he had died intestate.

(2) There shall be abolished as regards such land—

(*a*) All existing rules of law and canons of descent, and of devolution by special occupancy; and

(*b*) Tenancy by the curtesy; and

(*c*) Dower:

Provided that a husband or wife married before the passing of this Act, who, but for this Section, would have been entitled to

54 & 55 Vict. c. 66.

tenancy by the curtesy, dower, or other estate or interest, shall, at his or her own option, be entitled to the same in lieu of the interest conferred on him or her by this Section.

(3) This Section applies only in cases of death after the commencement of this Act.

(4) This Section shall not apply to any freehold registered land of any person who is at the commencement of this Act entitled to that real estate, either in possession or in remainder or reversion, and is at that date, and remains thenceforth until his death, incapable, by reason of infancy or of unsoundness of mind, of disposing of that real estate.

Provisions as to administration of such land.

86.—(1) Subject to the powers, rights, duties, and liabilities hereinafter mentioned, the personal representatives of a deceased person shall hold such land as trustees for the persons by law beneficially entitled thereto, and those persons shall, subject to the provisions of this Act, have the same power of requiring a transfer thereof as they have of requiring a transfer of personal estate.

(2) All enactments and rules of law relating to the effect of probate or letters of administration as respects chattels real, and as respects the dealing with chattels real before probate or administration, and as respects the payment of costs of administration and other matters in relation to the administration of personal estate, and the powers, rights, duties, and liabilities of personal representatives in respect of personal estate, shall apply to such land so far as the same are applicable, as if the land were a chattel real vesting in them or him, save that it shall not be lawful for some or one only of several joint personal representatives, without the authority of the Court, to sell or transfer such land.

(3) In the administration of the assets of a person dying after the commencement of this Act, seised of or entitled to any land to which this part of this Act applies, such land shall be administered in the same manner, subject to the same liabilities for debts, costs and expenses, and with the same incidents as if it were personal estate; provided that nothing herein contained shall alter or affect the order in which real and personal assets respectively are now applicable in or towards the payment of funeral and testamentary expenses, debts, and legacies.

Provision for registration of heir or devisee of such land.

87.—(1) At any time after the death of the owner of any such land, his personal representatives may assent, in the prescribed form, to any devise contained in the will of such deceased person, or may transfer the land to any person entitled thereto as heir, devisee, or otherwise; and may make the assent or transfer, either

subject to a charge for the payment of any money which the personal representatives are liable to pay or without any such charge; and on such assent or transfer, subject to a charge for all moneys (if any) which the personal representatives are liable to pay, all liabilities of the personal representatives in respect of the land shall cease, except as to any acts done or contracts entered into by them before such assent or transfer. 54 & 55 Vict. c. 66.

(2) At any time after the expiration of one year from the death of the owner of any such land, if his personal representatives have failed on the request of the person entitled to the land to transfer the land to that person, the Court may, if it think fit, on the application of that person, and after notice to the personal representatives, order that the person so entitled be registered as owner of the land either solely or jointly with the personal representatives.

(3) No fee shall be payable on any transfer under this Section by personal representatives to a person beneficially entitled to land.

(4) The production of an assent by the personal representatives on the prescribed form shall authorise the registering authority to register the person named in such assent as the full owner or limited owner of the land, as the case may be.

88. Nothing in this part of this Act shall render any land to which it applies liable to probate duty or legacy duty or exempt it from succession duty. Liability for duty.

89. In relation to freehold registered land, to which this part of this Act applies, the following provisions shall have effect:— Meaning of "heirs."

(1) The word "heir" or "heirs" used as a word of limitation in any Act of Parliament, deed, or instrument passed or executed either before or after the commencement of this Act, shall have the same effect as if this Act had not passed.

(2) The word "heir" or "heirs" used as a word of purchase in any Act of Parliament, deed, or instrument passed or executed before the commencement of this Act shall bear the same meaning as if this Act had not passed.

(3) The word "heir" or "heirs" used as a word of purchase in any Act of Parliament, deed, or instrument passed or executed after the commencement of this Act shall, unless a contrary intention appears, he construed to mean the person or persons, other than a creditor, who would be beneficially entitled to the personal estate of the ancestor if the ancestor had died intestate.

(4) Subject as aforesaid, references to the heirs of any person in any Act of Parliament, deed, or instrument passed or executed either before or after the commencement of this Act shall be construed to refer to his personal representatives.

TRUSTEE ACT, 1893.
(56 & 57 VICT. C. 53.)

56 & 57 Vict. c. 53.

Power of appointing new trustees.

10.—(1) Where a trustee, either original or substituted, and whether appointed by a Court or otherwise, is dead, or remains out of the United Kingdom for more than twelve months, or desires to be discharged from all or any of the trusts or powers reposed in or conferred on him, or refuses or is unfit to act therein, or is incapable of acting therein, then the person or persons nominated for the purpose of appointing new trustees by the instrument, if any, creating the trust, or if there is no such person, or no such person able and willing to act, then the surviving or continuing trustees or trustee for the time being, or the personal representatives of the last surviving or continuing trustee, may, by writing, appoint another person or other persons to be a trustee or trustees in the place of the trustee dead, remaining out of the United Kingdom, desiring to be discharged, refusing, or being unfit or being incapable, as aforesaid.

(2) On the appointment of a new trustee for the whole or any part of trust property—

(*a*) the number of trustees may be increased; and

(*b*) a separate set of trustees may be appointed for any part of the trust property held on trusts distinct from those relating to any other part or parts of the trust property, notwithstanding that no new trustees or trustee are or is to be appointed for other parts of the trust property, and any existing trustee may be appointed or remain one of such separate set of trustees; or if only one trustee was originally appointed, then one separate trustee may be so appointed for the first-mentioned part; and

(*c*) it shall not be obligatory to appoint more than one new trustee where only one trustee was originally appointed, or to fill up the original number of trustees where more than two trustees were originally appointed; but, except where only one trustee was originally appointed, a trustee shall not be discharged under this Section from his trust unless there will be at least two trustees to perform the trust; and

(*d*) any assurance or thing requisite for vesting the trust property, or any part thereof, jointly in the persons who are the trustees shall be executed or done.

(3) Every new trustee so appointed, as well before as after all the trust property becomes by law, or by assurance, or otherwise, vested in him, shall have the same powers, authorities, and discretions, and may in all respects act as if he had been originally appointed a trustee by the instrument, if any, creating the trust.

(4) The provisions of this Section relative to a trustee who is dead include the case of a person nominated trustee in a will but dying before the testator, and those relative to a continuing trustee include a refusing or retiring trustee, if willing to act in the execution of the provisions of this Section. 56 & 57 Vict. c. 53.

(5) This Section applies only if and as far as a contrary intention is not expressed in the instrument, if any, creating the trust, and shall have effect subject to the terms of that instrument and to any provisions therein contained.

(6) This Section applies to trusts created either before or after the commencement of this Act.

Retirement of trustee.

11.—(1) Where there are more than two trustees, if one of them by deed declares that he is desirous of being discharged from the trust, and if his co-trustees and such other person, if any, as is empowered to appoint trustees, by deed consent to the discharge of the trustee, and to the vesting in the co-trustees alone of the trust property, then the trustee desirous of being discharged shall be deemed to have retired from the trust, and shall, by the deed, be discharged therefrom under this Act, without any new trustee being appointed in his place.

(2) Any assurance or thing requisite for vesting the trust property in the continuing trustees alone shall be executed or done.

(3) This Section applies only if and as far as a contrary intention is not expressed in the instrument, if any, creating the trust, and shall have effect subject to the terms of that instrument and to any provisions therein contained.

(4) This Section applies to trusts created either before or after the commencement of this Act.

Vesting of trust property in new or continuing trustees.

12.—(1) Where a deed by which a new trustee is appointed to perform any trust contains a declaration by the appointer to the effect that any estate or interest in any land subject to the trust, or in any chattel so subject, or the right to recover and receive any debt or other thing in action so subject, shall vest in the persons who by virtue of the deed become and are the trustees for performing the trust, that declaration shall, without any conveyance or assignment, operate to vest in those persons, as joint tenants, and for the purposes of the trust, that estate, interest, or right.

(2) Where a deed by which a retiring trustee is discharged under this Act contains such a declaration as is in this Section mentioned by the retiring and continuing trustees, and by the other person, if any, empowered to appoint trustees, that declaration shall, without any conveyance or assignment, operate to vest in the continuing

56 & 57 Vict. c. 53.

trustees alone, as joint tenants, and for the purposes of the trust, the estate, interest, or right to which the declaration relates.

(3) This Section does not extend to any legal estate or interest in copyhold or customary land, or to land conveyed by way of mortgage for securing money subject to the trust, or to any such share, stock, annuity, or property as is only transferable in books kept by a company or other body, or in manner directed by or under Act of Parliament.

(4) For purposes of registration of the deed in any registry, the person or persons making the declaration shall be deemed the conveying party or parties, and the conveyance shall be deemed to be made by him or them under a power conferred by this Act.

(5) This Section applies only to deeds executed after the thirty-first of December one thousand eight hundred and eighty-one.

Application to trustees under Settled Land Acts of provisions as to appointment of trustees.

47.—(1) All the powers and provisions contained in this Act with reference to the appointment of new trustees, and the discharge and retirement of trustees, are to apply to and include trustees for the purposes of the Settled Land Acts, 1882 to 1890, whether appointed by the Court or by the settlement, or under provisions contained in the settlement.

(2) This Section applies and is to have effect with respect to an appointment or a discharge and retirement of trustees taking place before as well as after the commencement of this Act.

(3) This Section is not to render invalid or prejudice any appointment or any discharge and retirement of trustees effected before the passing of this Act, otherwise than under the provisions of the Conveyancing and Law of Property Act, 1881.

LAND LAW (IRELAND) ACT, 1896.
(59 & 60 VICT. C. 47.)

59 & 60 Vict. c. 47.

Extinguishment of superior interests.

54 & 55 Vict. c. 57.

31.—(1) Where any land has been sold under the Land Purchase Acts, as amended by this Act, or where land is sold by the Land Judge to the tenant thereof, and an advance under the Land Purchase Acts is made for the purpose of such sale, or where a lessor or grantor has signified his consent to the redemption of a rent under the Redemption of Rent (Ireland) Act, 1891, the sale of such land, or the redemption consequent on the lodgment of such consent, as the case may be, shall be made discharged from all superior interests as defined by this Section, or from any of them, and in every such case the land shall be vested accordingly in the purchaser in fee simple, and such superior interests, or the value

thereof, shall be a lien upon, and be redeemed or satisfied out of, the purchase money of such land. 59 & 60 Vict. c. 47.

(2) A vesting order shall be subject to such exceptions and reservations as are specified in the order, if they were contained in the agreement for purchase or subsequently agreed to by the vendor and purchaser and have been approved by the Land Commission, and the Land Commission are satisfied that the effect of such exceptions and reservations was explained to and understood by the purchaser, or the purchaser is represented by a solicitor other than the solicitor of the vendor.

(3) The powers of apportionment and redemption given to the Land Commission by Section ten of the Purchase of Land (Ireland) Act, 1885, and Sections fifteen and sixteen of the Land Law (Ireland) Act, 1887, shall extend to superior interests and be exercised in such manner as shall appear equitable, and shall not be limited to an apportionment between the land sold and the residue of the land subject to the superior interest. 48 & 49 Vict. c. 73. 50 & 51 Vict. c. 33.

(4) Where a holding is sold by the Land Judge to the tenant thereof, and an advance under the Land Purchase Acts is made for the purpose, the Land Judge shall have the powers of apportionment and redemption conferred on the Land Commission by Sections fifteen and sixteen of the Land Law (Ireland) Act, 1887, and by Section twenty of the Purchase of Land (Ireland) Act, 1891, as the same are amended and extended by this Act in like manner as if the Land Judge were the Land Commission. 50 & 51 Vict. c. 33. 54 & 55 Vict. c. 48.

(5) The price or compensation to be paid in respect of a superior interest, or of any apportioned part thereof, shall be determined in the manner provided by the said Sections for the redemption of annuities, rent-charges, and rents: Provided that, if the Court are of opinion that any such superior interest is of no appreciable value to the persons entitled thereto, the purchase money of the land may be distributed without regard to such superior interest.

(6) If a superior interest, or the benefit arising thereunder, is settled land within the meaning of the Settled Land Acts, 1882 to 1890, the person who constitutes the tenant for life, or who has the powers of a tenant for life under those Acts, shall have power to enter into any consent in relation to the sale being made discharged from such superior interest, and to the redemption or satisfaction of the same out of the purchase money.

(7) Where a superior interest is subject to an incumbrance as defined by the Land Law (Ireland) Act, 1887, the Court shall have the same powers as if such incumbrance had been charged directly upon the land sold. 50 & 51 Vict. c. 33.

59 & 60 Vict. c. 47.

(8) The expression "superior interest" shall include any rent, rent-charge, annuity, fees, duties, or services, payable or to be rendered in respect of the land sold to any person, including Her Majesty and Her successors, and any estates, exceptions, reservations, covenants, conditions, or agreements, contained in any fee-farm grant, or other conveyance in fee, or lease, under which such land is held, and, if such land is held under a lease for lives or years renewable for ever, or for a term of years of which not less than sixty are unexpired at the date of the sale, shall include any reversion or estate expectant on the determination of such lease or expiration of such term, and notwithstanding that such reversion or estate may be vested in Her Majesty and Her successors.

(9) Nothing in this Section shall affect the rights of the public or of any class of the public in respect of the land sold.

(10) The Land Commission or the High Court shall not in any case be empowered to make any requisition as to title the making of which by a purchaser would be prevented by the Vendor and Purchaser Act, 1874, or any Act amending the same.

37 & 38 Vict. c. 78.

As to redemption or apportionment of annuities, rent-charges, &c., under.

50 & 51 Vict. c. 33, ss. 15, 16.

33.—(1) For the purpose of the distribution of, or other dealing with, an advance, Sections fifteen and sixteen of the Land Law (Ireland) Act, 1887, and any other unrepealed enactment in the Land Purchase Acts, or this Act, relating to the redemption or apportionment of charges on holdings, or otherwise to the distribution of the purchase money of a holding, shall apply as if the money were the holding.

(2) For the purpose of an agreement respecting the redemption price of any annuity, rent-charge, or rent apportioned under the said Section sixteen, the Court may determine the parties by whom such agreement may be made or by whom the consent may be given for the determination of the price by the Court.

(3) The said Sections as amended by this Section shall apply to any contingent liability for any annuity, rent-charge, or rent, in like manner as they apply to the annuity, rent-charge, or rent itself, and where any contingent liability has no appreciable value, the money may be distributed without regard to such liability.

(4) Where any liability for any annuity, rent-charge, or rent is apportioned and redeemed out of the purchase money and a right of indemnity in respect of such liability exists, the person entitled to the purchase money shall be entitled to the proportion of the annuity, rent-charge, or rent so redeemed, in like manner as if he had purchased the same, and the Court, after due notice to all persons interested, shall make provision as to the future payment of such portion of the annuity, rent-charge, or rent so purchased,

and as to the land to be liable thereto, and such other provisions as appear to the Court necessary for carrying into effect this enactment. 59 & 60 Vict. c. 47.

As to easements, &c. when vesting order is made.

34.—(1) A holding vested in a purchaser by a vesting order under this Act shall continue to have appurtenant thereto and to be subject to, as the case may be, any previously existing easements, rights, and appurtenances; and any privilege previously in fact enjoyed, whether by permission of the landlord or otherwise, in such manner and for such time that, if the holding had belonged to a different owner from the rest of the estate, it would have been an easement or right, shall be an easement or right within the meaning of this Section, and shall be appurtenant to or exercisable over the holding, as the case may be.

(2) The vesting order may, if the Land Commission think fit, declare that the sale is made subject to or free from any particular easement, right, or appurtenance, and such declaration shall have full effect.

(3) This Section shall extend to any sale or declaration of title made by the Land Judge in pursuance of the Landed Estates Court (Ireland) Act, 1858, in like manner as if it were herein re-enacted with the necessary modifications. 21 & 22 Vict. c. 72.

Liability for arrears of rent and interest on purchase money after agreement to purchase.

35.—(1) Where an agreement for the purchase of a holding is made after the commencement of this Act and is lodged with the Land Commission, the purchaser shall, in the event of the sale being carried out, be discharged from all liability to the vendor in respect of any liabilities affecting the holding at the date of the agreement, including all rent and arrears existing at such date; but if the advance is refused the agreement shall be void, and the tenant shall be liable to pay rent and arrears as if the agreement had not been made. Provided that no proceeding in respect of the said rent and arrears existing at the date of the agreement shall be brought pending the carrying out of the sale.

(2) Interest on the purchase money from the date of the said agreement until the day from which the purchase annuity begins, shall be payable half-yearly on the first day of May and first day of November by the purchaser, and shall be paid to, and be collected and recoverable by, the Land Commission, in like manner as if it were an instalment of the purchase annuity charged upon the holding, and when received by them shall as respects the period subsequent to the date of the advance be applied in payment of the interest due under Section twenty of the Land Law (Ireland) Act, 1887, and subject thereto shall be paid to the person in receipt of the rent at the date of the agreement or such other person as may prove himself to be entitled thereto, and if the advance is refused 50 & 51 Vict. c. 33.

59 & 60 Vict. c. 47.

shall be allowed by the landlord to the tenant as a payment on account of rent.

Terms of redemption of tithe rent-charge in case of sale.
50 & 51 Vict. c. 33.
35 & 36 Vict. c. 70.

37.—(1) Where the Land Commission, in pursuance of Section fifteen of the Land Law (Ireland) Act, 1887, order the redemption of tithe rent-charge at a price not less than twenty times the net amount of such tithe rent-charge, after making such deduction in respect of rates as is provided by Section seven of the Irish Church Act, 1869, Amendment Act, 1872, the consent of the Treasury shall not be required to such redemption.

32 & 33 Vict. c. 42.

(2) The foregoing enactment shall not apply to any annual sum payable to the Land Commission under Section thirty-two of the Irish Church Act, 1869, as amended by any other Act, but the Land Commission may order the redemption of such tithe rent-charge at a sum calculated on the basis of the annual sum being for a term of forty-five instead of fifty-two years.

Sales under the Landed Estates Court Act.
21 & 22 Vict. c. 72.

40.—(1) Where an absolute order for the sale of an estate, comprising holdings to which this Section applies, has been made under the Landed Estates Court (Ireland) Act, 1858, and either a receiver has been appointed over the estate or the estate is so circumstanced that it would independently of this Act be sold without the consent of the owner as to price, the following provisions shall have effect:—

(*a*) The Land Commission shall, at the request of the Land Judge, cause the estate to be inspected, and a report to be made by two Commissioners respecting the estate, and the circumstances thereof, and the price at, and the conditions under which the sale of the holdings to the tenants under the Land Purchase Acts can properly be made:

(*b*) The Land Judge, after giving all parties, including the tenants, an opportunity of being heard, and considering the report and any offers that may be made for the purchase of the estate or any part thereof, and any other matters that may be brought before him, and the general circumstances of the estate, shall make to the person appearing to be in occupation as tenant of each holding on the estate an offer to sell to him the fee simple of the holding, discharged from the arrears of rent then due from him in respect thereof, at such price, and subject to such conditions, whether as to the payment of part of the price in cash, or as to the offer to one tenant being conditional on the acceptance by other tenants of the offers made to them within a limited time, or otherwise, as the Land Judge may consider reasonable and just, having regard to the interest of all persons interested in the estate:

(*c*) The offer shall be communicated in such manner as the Land Commission think fit to the person appearing to be in occupation as

tenant, and if it is accepted, then, in fulfilment of the conditions, the said person shall be deemed to have agreed to purchase the holding within the meaning of the Land Purchase Acts, and the sale shall be completed accordingly: 59 & 60 Vict. c. 47.

(*d*) If it appears to the Land Judge that the tenants of holdings on the estate to the extent of not less than three-fourths in number and value according to the rateable value under the Irish Valuation Acts have accepted the offers under this Section, he may, if, having regard to the circumstances of the case, he thinks it expedient, order that the remaining tenants or any of them shall be deemed to have accepted the offers made to them, and this Section and the Land Purchase Acts shall apply accordingly; provided that such order shall not apply to any tenant if the purchase money of his holding would exceed the limitation on the amount of the advance imposed by Section two of the Purchase of Land (Ireland) Amendment Act, 1888, and the holding of such tenant shall not be taken into consideration in estimating the three-fourths above mentioned: 51 & 52 Vict. c. 49.

(*e*) Subject to the prescribed rules, including rules as to security for costs, any person aggrieved by any order of the Land Judge made under this Section may, with the leave of the Land Judge or of the Court of Appeal, appeal to the Court of Appeal, whose decision shall be final:

(*f*) Where a receiver has been appointed over part of an estate this Section shall apply to that part in like manner as if it were an estate:

(*g*) The foregoing provisions of this Section shall apply only to holdings which are agricultural or pastoral, or partly agricultural and partly pastoral.

(2) Any person in occupation of and paying rent for a parcel of land (including the owner of an estate in occupation of a mansion house or demesne forming part of the estate) held under a letting by the Land Judge or Receiver Judge, may agree to purchase such parcel of land, and the same shall be deemed a holding, and such person a tenant, and the Land Judge or Receiver Judge, as the case may be, a landlord within the meaning of the Land Purchase Acts.

(3) At any time after an absolute order for the sale of an estate or part of an estate has been made in pursuance of the Landed Estates Court (Ireland) Act, 1858, the foregoing provisions of this Section so far as they are applicable may upon the application of the owner be applied to such estate, although a receiver has not been appointed over the estate, and the estate is not so circumstanced that it would, independently of this Act, be sold without the consent of the owner as to price; provided that no advance shall be made to 21 & 22 Vict. c. 72.

59 & 60 Vict. c. 47.

the owner to purchase any mansion house or demesne forming part of the estate.

(4) Rules under Part Two of this Act may be made for carrying into effect this Section.

Appeals under Land Purchase Act.

41. Any person aggrieved by the order of a Land Commissioner acting alone in carrying the Land Purchase Acts as amended by this Act into effect may, if such Commissioner was not a Judicial Commissioner and the question is one of law, require the case to be reheard by a Judicial Commissioner, and in any other case may require the question to be reconsidered by a Judicial Commissioner and two other Commissioners, one of whom shall be a Commissioner appointed under the Purchase of Land (Ireland) Act, 1885, except where, owing to unavoidable absence, illness, or a vacancy in office, such a Commissioner is not available; provided that if the Judicial Commissioner thinks it desirable the case shall be reheard by those three Commissioners.

48 & 49 Vict. c. 73.

TITHE RENT-CHARGE (IRELAND) ACT, 1900.
(63 & 64 VICT. C. 58.)

63 & 64 Vict. c. 58.

Ascertainment and publication of percentage of variation in judicial rents.

44 & 45 Vict. c. 49.

2.—(1) As soon as possible after the passing of this Act, the Land Commission shall ascertain, from the appendices to their reports as presented to Parliament in pursuance of Section fifty-five of the Land Law (Ireland) Act, 1881, by what amount in each county during the period commencing with and including the year covered by the annual report dated the twentieth day of September, one thousand eight hundred and eighty-six, and ending with that presented last before the passing of this Act, the rents of holdings in respect of which judicial rents have been fixed for a first statutory term, whether by order or by agreement, have, for the entire of such period, been varied by the fixing of such judicial rents, and shall certify the average percentage which such variation represents.

(2) The Land Commission shall similarly ascertain and certify for each county in respect of every subsequent period of fifteen years the average percentage of variation of judicial rents payable during a second or subsequent statutory term as compared with the judicial rents payable during the last preceding statutory term.

(3) The Land Commission shall publish their certificates under this Section in such manner for giving information to all persons interested, as they think most convenient.

(4) A copy of every certificate of the Land Commission under this Section shall be published in the Dublin Gazette.

(5) The production of a printed copy of the Dublin Gazette, purporting to be published by the Queen's authority, and containing the publication of any certificate of the Land Commission under this Section, or of a sealed copy issued by the Land Commission of any such certificate, shall be evidence of the contents of such certificate, and of the date thereof, and that it has been duly made. 63 & 64 Vict. c. 58.

(6) The Land Commission shall keep a record in their office of all certificates made by them under this Section.

3.—(1) During the period of fifteen years, dating from the first day of November next after the passing of this Act, the sum payable in respect of every gale accruing due after that date of any tithe rent-charge payable out of hereditaments situate in any county shall be deemed to be varied, from the amount at which it stood on the twenty-second day of August, one thousand eight hundred and eighty-four, in accordance with the average percentage of variation of rents declared by the certificate of the Land Commission to have taken place with respect to such county by the fixing of judicial rents for a first statutory term, and shall be payable accordingly. Variation of tithe rent-charges.

(2) During each subsequent period of fifteen years, the like variation shall be deemed to be made in all tithe rent-charges from the amount at which they respectively stood immediately before the commencement of such period, in accordance with the average percentage of the variation of judicial rents certified by the Land Commission, for the period of fifteen years terminating last before the commencement of each such first-mentioned period respectively, and all tithe rent-charges shall be payable accordingly.

(3) After the passing of this Act, no variation shall be made in any tithe rent-charge, save in accordance with the provisions of this Act.

CONGESTED DISTRICTS BOARD (IRELAND) ACT, 1901. (1 EDW. VII. C. 34.)

1.—(1) Where the Congested Districts Board have, whether before or after the passing of this Act, purchased an estate and the tenants of holdings thereon to the extent of not less than three-fourths in number and rateable value so request,* the Board may serve a notice on any tenant thereon which shall have the effect of determining his tenancy in his holding as from the date 1 Edw. VII. c. 34. Provision for facilitating re-sales of land by Congested Districts Board.

* See Sect. 82 (1), Act 1903, *ante* p. 152.

1 Edw. VII. c. 34.

mentioned in the notice, not being less than six months from the service thereof.

(2) Every such notice shall contain an undertaking by the Board that they will, within the period mentioned in that behalf in the notice, or so soon thereafter as practicable, provide the tenant with a new holding on the same or an adjacent or neighbouring estate, subject to a rent not exceeding that payable by him for his original holding, and of not less value, in respect of the land comprised in the new holding and the buildings and improvements thereon, than the value of the land comprised in the former holding and the buildings and improvements thereon respectively at the date of the purchase of the estate by the Board.

(3) If any such tenant is dissatisfied with his new holding or refuses to enter into possession thereof, he may, within four months after he has been served with a notice stating that the Board are prepared forthwith to put him into possession thereof, apply to the county court within the jurisdiction of which the estate is situate, and that Court may, subject to rules of Court, hear and decide upon the application.

(4) If, where the tenant is dissatisfied with the new holding, the Court decides that the value thereof is, in respect of any of the matters aforesaid, less than the value of the former holding, the Court may, after taking into account, in connection with such inferiority in value, the rent payable for the new holding and every circumstance which the Court considers material, order such compensation as it may deem fit to be paid by the Board to the tenant, and, in addition or as an alternative, may order the Board to erect such buildings or make such other improvements on the holding as the Court may think reasonable.

(5) Where a tenant refuses to enter into possession of the new holding, the Court may order the payment to him by the Board of such sum as, in the opinion of the Court, is equal to the value of his interest in his former holding.

(6) The county court may, upon application, order that such charges, liabilities and equities as affect the tenant's interest in his former holding shall either continue to affect that holding or be transferred to his new holding.*

(7) Any decision of the county court under this Section shall be final, and any notice under this Section determining a tenancy may be enforced by a writ of possession of the county court, but no such writ shall be executed in pursuance of this Section in the case of any tenant until the Board certify to the sheriff that they

* See Sect. 82 (2), Act 1903, *ante* p. 152.

are prepared forthwith to put such tenant into possession of his new holding. 1 Edw. VII. c. 34.

(8) Where a matter requiring the cognisance of the Court under this Section arises in respect of an estate situate within the jurisdiction of more than one county court, the county court within the jurisdiction of which the greater part in rateable value of the estate is situate shall take cognisance of the matter.

(9) Every notice under this Section shall be served on the tenant affected thereby either personally or by leaving the same at his residence or by transmitting the same by registered letter to his last known address.

(10) The Court may award costs to or against any party to any proceedings under this Section, and, in addition to any other power, may, where of opinion that a reasonable offer for the payment of compensation or the execution of any works has been made by the Board, order a tenant to pay any costs incurred by the Board after the date of the offer. Any costs ordered to be paid by a tenant under this Section may be deducted from any compensation payable to him thereunder.

(11) Rules of Court may regulate the practice and procedure under this Section.*

(12) In this Section the expression "estate" includes part of an estate.

Extension of 44 & 45 Vict. c. 49, s. 5 (5) in case of land purchased by the Board.

2. The right to enter upon a holding during the continuance of a statutory term conferred on a landlord by Sub-section (5) of Section five of the Land Law (Ireland) Act, 1881, for the purposes therein specified, is hereby conferred on the Congested Districts Board and any person authorised by them in that behalf, in respect of any holding, not subject to a statutory term, which is situate upon land purchased by that Board; and, for enforcing the right conferred by this Section, the Board shall have the like remedies as in the case of a holding subject to a statutory term.†

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* See Rules of 24th February 1902, *post* p. 310.

† See Sect. 83, Act 1903, *ante* p. 152.]

APPENDIX C.—FORMS, &c.

FORM I.

Deed of Grant of Sporting Rights.

THIS INDENTURE made the day of 190 , Between A, B and C of in the County of Farmers (hereinafter called the "grantors") of the one part and D of in the County of Esquire (hereinafter called "the grantee") of the other part. Whereas the grantors are the tenants of the grantee in the occupation of the lands of in the Barony of and County of , and whereas the grantee has agreed to sell to the grantors their holdings on the said lands under the provisions of the Land Purchase (Ireland) Acts, and it was agreed upon the treaty for the said sale that the grantors should convey to the grantee the sporting rights vested in them in respect of the said lands. Now this Indenture Witnesseth that in consideration of the premises the grantors do and each of them doth hereby grant unto the grantee the Sole and exclusive sporting rights, as defined by Section 13 of the Irish Land Act, 1903, now exercisable by the grantors in respect of the said lands. To Hold unto and to the use of the grantee his heirs and assigns.

In witness, &c.

FORM II.

Preliminary Agreement to Purchase.

MEMORANDUM OF AGREEMENT made the day of 190 , Between of (hereinafter called "the vendor") of the one part and the several tenants who have signed their names to the Schedule hereto (hereinafter called "the tenants") of the other part.

1. In case an estate comprising the holdings of the tenants shall be sold under the provisions of the Irish Land Act, 1903, the vendor hereby agrees to sell and each of the tenants hereby agrees

to purchase the holding described in the said Schedule opposite to his (or her) name for the sum stated in the seventh column thereof.*

2. The sporting rights within the meaning of the Irish Land Act, 1903, to which the vendor is entitled over and upon the said holdings exclusive of the tenants: shall be

(*a*) Reserved to the vendor; or †

(*b*) Vested in the tenants, but no sporting rights which are not in the possession or enjoyment of the vendor at the time of the sale shall be so vested.

3. No mineral rights or water rights which are not in the possession or enjoyment of the vendor at the time of the sale shall be vested in the tenants.

4. The tenants, when called upon, shall sign such agreements, or other documents as may be necessary for carrying out the said sale.

5. Immediately before signing the agreements for purchase prescribed by the Rules made under the said Act the tenants shall pay to the vendor interest on their respective purchase moneys, as set out in column 7 of the said Schedule,‡ at the rate of per cent. per annum from the day of 190 (or day of 190 , as the case may be,)§ up to the date of signing such agreements. The interest to be reserved under the said agreements for purchase shall be at the same rate. [The tenants shall at the same time pay to the vendors the sums mentioned in the eighth column of the said Schedule in discharge of rents and arrears due up to the said day of 190 (or day of 190 as the case may be).]¶

6. In the event of the Land Commission refusing to advance to any of the tenants the whole of the said purchase money of his

---

* If there is no time to calculate the amount of the purchase moneys the words "for the sum stated in the seventh column thereof" may be omitted and the following words inserted in their place, viz. "for such a sum as:

"(*a*) In the case of yearly tenants, will make the purchase annuity per cent. less than the present rent; and,

"(*b*) In the case of tenants whose rents have been fixed or agreed to since 15 Aug. 1896, will make the purchase annuity per cent. less than the present rent; and,

"(*c*) In the case of tenants whose rents were fixed or agreed to prior to 15 Aug. 1896, will make the purchase annuity per cent. less than the present rent."

† Strike out whichever clause is inappropriate.

‡ If the first clause of the agreement fixes the price by a reference to percentages, the words "as set out in column 7 of the said Schedule" will be omitted.

§ The words in brackets may be left out if the tenants have all the same gale day.

¶ The words in square brackets may be omitted where the arrears are forgiven or added to the purchase money, and in such case column 8 in the Schedule should be struck out. If the first clause of the agreement fixes the price by a reference to percentages, the words in square brackets will be omitted, and the following words inserted in their place, viz. "all arrears of rent due up to the day of (or day of as the case may be) shall be forgiven, and the half-year's rent falling due on the day of (or day of as the case may be) shall be added to and shall be in addition to the amount of the purchase money arrived at under clause 1 hereof."

holding, such tenant shall, when so required, pay in cash the difference between his said purchase money and the sum which the Land Commission are willing to advance.*

7. If any of the tenants shall refuse or neglect to carry out this agreement, or if, owing to the discovery of a defect in his title, or of some circumstance injuriously affecting his title, the vendor is unable or unwilling to proceed with the sale, then this agreement shall be void if the vendor shall so desire, and shall give notice in writing to the tenants to that effect, and the tenants shall thereupon become liable to pay rent and arrears as if this agreement had not been made.†

IN WITNESS whereof the parties aforesaid have hereunto set their hands the day and year first above written.

SCHEDULE.‡

1 No. on Rental.	2 Denominations.	3 Tenants' Names.	4 Approximate Area of Holdings.	5 Yearly Rents.	6 Amount of Arrears to be added to Purchase Money.	7 Total Advances to be Applied for, Including Sums in Column 6.	8 Sums to be paid in Cash.	9 Signatures of Tenants.

SIGNED by the above tenants Nos. to inclusive, in presence of .

SIGNED by the above tenants Nos. to inclusive, in presence of .

FORM III.

AGREEMENT FIXING SOLICITOR'S REMUNERATION.

AGREEMENT made the day of 190 BETWEEN of (hereinafter called "the vendor") of the one part and and carrying on business as Solicitors under the style of of (hereinafter called "the Solicitors") of the other part, WITNESSETH

* This clause will probably be often omitted.

† See Addenda.

‡ If the first clause of the agreement fixes the price by a reference to percentages, such of the columns of the Schedule as are inappropriate will be omitted.

1. The Solicitors shall act for the Vendor in carrying out a sale of his Estate of in the County of under the Land Purchase (Ireland) Acts.

2. The remuneration to be paid to the Solicitors for carrying out such sale shall be a Commission (hereinafter referred to as "the Commission") calculated at the rate of per cent. on the gross purchase money produced by the sale, exclusive of the amount which shall be received from the Land Purchase Aid Fund. The Commission shall be payable as soon as the purchase money or portion of the purchase money is ready for allocation.

3. Save as hereinafter mentioned the Commission shall cover (*a*) All preliminary work done by the Solicitors in connection with the negotiations for the sale, (*b*) all work of every description in connection with the sale and the payment out of the purchase money, (*c*) all outlay connected with the sale.

4. The Commission shall not cover the costs of any proceedings in any Court other than that of the Irish Land Commission, or the expenses of survey and maps, or of Valuation Office certificates, or costs payable to other parties, nor shall it cover the costs of journeys out of Ireland (if any).

5. In the event of the sale not being completed, the Vendor shall pay to the Solicitors all cash expenses which they may have incurred in connection therewith, together with such remuneration for the work done as is authorised by the Schedule of fees in the Appendix to the Provisional Rules, made by the Irish Land Commission on the 4th day of December 1903. The Vendor shall be personally liable for payment of the fees and expenses mentioned in this clause. IN WITNESS whereof the parties aforesaid have hereunto set their hands the day and year first above written.

SIGNED by the said
in presence of .

FORM IV.

CONSENT TO REDEMPTION OF AN IMMEDIATE RENT AND TO APPORTIONMENT AND PART REDEMPTION OF A SUPERIOR RENT.

IRISH LAND COMMISSION.
ESTATES COMMISSIONERS.
RECORD NO. E.C.
COUNTY OF .
ESTATE OF X. Y.

WHEREAS by an Indenture of Fee Farm Grant dated, &c., and made between, &c. (pursuant to the provisions of the Renewable

Leasehold Conversion Act), the lands comprised in the first and second parts of the Schedule hereto, and in the said indenture described as (*Here insert description of lands as in grant*) (excepting and reserving to the grantor all mines and minerals, and rights of hunting, hawking, fishing, and fowling [*or as the case may be*]), were granted to the said his heirs and assigns for ever, subject to the yearly rent of £ , and to certain covenants, conditions, and agreements therein contained.

And whereas by an Indenture of sub-fee farm grant dated, &c., and made between, &c. (pursuant to the provisions of the Renewable Leasehold Conversion Act), the lands comprised in the first part of the Schedule hereto, and in the said indenture of sub-fee farm grant described as (*Here insert description of lands as in grant*) (excepting and reserving to the grantor all mines and minerals, and all rights of hunting, hawking, fishing, and fowling [*or as the case may be*]) were granted to the said , his heirs and assigns for ever, subject to the yearly rent of £ , and to certain covenants, conditions, and agreements therein contained.

And whereas the said X. Y. is entitled to the grantee's interest under the said sub-fee farm grant of the day of and A. of in the County of , is entitled to the grantor's interest in the same grant, and also to the grantee's interest in the said superior grant of the day of .

And whereas B. of in the County of , is entitled to the grantor's interest in the said superior grant of the day of .

And whereas the lands described in the first part of the Schedule hereto have been sold in this matter under the provisions of the Land Purchase Acts, and it is expedient for the purpose of such sale that the said superior rent of £ be apportioned, and the apportioned part redeemed in manner hereinafter appearing, and it is also expedient that the said immediate rent of £ be redeemed.

Now it is hereby consented to and agreed upon by and between the said X. Y. and the said A. and B. as follows:—

1. That the said superior rent of £ be apportioned by placing £ thereof upon the lands, comprised in the first part of the Schedule hereto, and by placing £ , the residue thereof, upon the lands comprised in the second part of the schedule hereto.

2. That the said annual sum of £ , placed upon the lands in the first part of the said Schedule, be redeemed at the price of £ ; which sum shall be deemed to include, and be the con-

sideration for releasing the lands which have been sold in this matter, and the purchase money thereof, from all fees, duties, services, exceptions, reservations, covenants, conditions, and agreements contained in the said superior grant of the day of , and from all reversions and estates (if any), expectant upon the determination of the said grant.

3. That the said immediate rent of £ be redeemed at the price of £ ; which sum shall be deemed to include, and be the consideration for releasing the lands which have been sold in this matter, and the purchase money thereof, from all fees, duties, services, exceptions, reservations, covenants, conditions, and agreements contained in the said superior grant of the day of ; and from all reversions and estates (if any), expectant upon the determination of the said grant.

4. That the said A. and B. be entitled to their respective costs, when taxed and ascertained, of and incidental to this consent and the negotiations relative thereto, and of and incidental to the making of title to the said redemption monies, and of drawing the same out of Court; and that such costs be paid out of the funds to the credit of this matter.

5. That this consent be made a rule of Court.

SCHEDULE.

Townlands, Barony and County (Ordnance Survey Names only).	Reference to Map.	Area in Statute Measure of each Townland or part of a Townland.	Tenement Valuation exclusive of Buildings.	Names and Addresses of Owners or Reputed Owners.	Proportions in which rent of £ has heretofore been paid.	Proposed Apportionment.
			FIRST PART. Lands which have been sold in this matter.			
			SECOND PART. Lands which have not been sold.			

SIGNED by the said X. Y. in presence of .

SIGNED by the said A. in presence of .

SIGNED by the said B. in presence of .

N.B.—The above signatures must be verified by affidavit; and if the title to the head rents has not been previously ruled on by an examiner, an affidavit must be filed showing that the proper and necessary persons have signed the consent, and an attested copy of each affidavit must be lodged with the consent.

FORM V.

Consent to Redemption of an Impropriate Tithe Rent-charge.

Irish Land Commission.
Estates Commissioners.
Record No. E.C.
County of .
Estate of X. Y.

WHEREAS the lands of known on the Ordnance Survey as the lands of in the Barony of and County of , which have been sold in this matter were prior to such sale, subject to the annual impropriate tithe rent-charge of £ payable to A. of in the County of .

And whereas the said tithe rent-charge of £ has been reduced and adjusted to the sum of £ , under the provisions of the Tithe Rent-charge (Ireland) Act, 1900.

And whereas the said A. has agreed with the said X. Y. to have the said impropriate tithe rent-charge redeemed.

Now it is hereby consented to and agreed upon by and between the said X. Y. and the said A.

(1) That the said annual impropriate tithe rent-charge of £ , so reduced and adjusted as aforesaid, be redeemed at the price of £ .

(2) That the said A. be entitled to his costs, when taxed and ascertained, of and incidental to this consent, and the negotiations relative thereto, and of and incidental to the making of title to the said redemption money, and of drawing the same out of Court; and that such costs be paid out of the funds to the credit of this matter.

(3) That this consent be made a rule of Court.

Signed by the said X. Y. in presence of .
Signed by the said A. in presence of .

N.B.—The above signatures must be verified by affidavit; and if the title to the tithe rent-charge has not previously been ruled on by an Examiner, an affidavit must be filed showing that the proper and necessary persons have signed the consent, and an attested copy of such affidavit must be lodged with the consent.

FORM VI.

Notice of Motion for an Exclusive Charge under Sect. 62, Act 1903.

Irish Land Commission.
Estates Commissioners.
Record No. E.C.
County of .
Estate of X. Y.

Sir,

Take notice that on day, the day of 190 , or the first opportunity afterwards, Counsel on behalf of the said X. Y. will apply to the Honourable Mr. Justice Meredith for an Order that the rent of £ , created by a fee farm grant dated, &c., and made between, &c., and issuing out of the lands in the first and second parts of the Schedule hereto, be exclusively charged upon the lands in the second part of the Schedule hereto pursuant to the provisions of Section 62 of the Irish Land Act, 1903, or for such other order as the Court may be pleased to make, and for the costs of this application as part of the said X. Y.'s costs in the matter; which application will be grounded upon the affidavit of filed the day of 190 , the nature of the case, &c.

Dated this day of 190 ,

Solicitors for the said X. Y.

Street, Dublin.

To

SCHEDULE.

Townlands, Barony and County (Ordnance Survey Names only).	Reference to Map.	Area in Statute Measure of each Townland or part of a Townland.	Tenement Valuation.	Names and Addresses of Owners or Reputed Owners.	Proportions in which rent of £ has heretofore been paid.
	FIRST PART. Lands which have been sold in this matter.				
	SECOND PART. Lands which have not been sold.				

SCALE OF SOLICITORS' FEES

SUGGESTED BY

THE INCORPORATED LAW SOCIETY OF IRELAND

FOR LANDLORDS' SOLICITORS.

Land Purchase (Ireland) Acts.

The Council of the Society suggest the following as a reasonable scale of remuneration by Commission for Solicitors for Vendors under the above Acts, where an agreement between the Vendor and his Solicitor, such as contemplated by Order XX., Rule 2 of the Provisional Rules, made by the Irish Land Commission, dated 4th December 1903, is proposed to be entered into.

If the gross amount of the proceeds of sale exceeds £5000, but does not exceed £20,000.

Two and one-half per cent. upon the gross amount.

If the gross amount of the proceeds of sale exceeds £20,000, but does not exceed £100,000.

Two and one-half per cent. upon £20,000, and two per cent. upon the balance up to £100,000.

In the case of estates in which the gross amount of the proceeds of sale does not exceed £5000 or in which the gross amount of the proceeds exceeds £100,000.

The rate of commission to be a matter of arrangement between the Vendor and his Solicitor.

The above Commission is to cover all preliminary advice to, and correspondence with, the Vendor or his agent or other persons negotiating the sale, or the Solicitor for tenants or incumbrancers, and also with other parties in connection with negotiations for sale; preparation, execution, and lodgment of the originating application or Request, and the necessary agreements and consents; advertisements, statements, affidavits, notices, perusal of deeds, preparation of abstract of title, procuring the necessary evidence to vouch same; also all searches, inquiries, correspondence, attendances, and general work in connection with carrying through the sale in the Land Purchase Department, and doing all that is requisite under the General Orders of the Land Commission until the final Schedule of Incumbrances or allocation schedule is ruled, and the proceeds of

the sale allocated to the parties entitled, including all outlay with the exceptions hereinafter set forth.

The above Commission is not to cover the costs of any proceedings in any Court other than that of the Irish Land Commission, or the costs of survey and maps, or of Valuation Office certificates, or costs payable to other parties.

If the sale be negotiated by the Solicitor the extra remuneration to be a matter of arrangement between the Vendor and his Solicitor.

SOLICITORS' BUILDINGS, FOUR COURTS,
DUBLIN, 24*th February* 1904.

SCALE OF SOLICITORS' FEES

SUGGESTED BY

THE INCORPORATED LAW SOCIETY OF IRELAND

FOR TENANTS' SOLICITORS.

LAND PURCHASE (IRELAND) ACTS.

THE Council of the Society suggest the following as a reasonable scale of remuneration to be paid by Tenant Purchasers to their Solicitors for all work in connection with negotiations for purchase, up to and including the execution of the purchase agreement:—

	£	*s.*	*d.*
Where the tenant's rent does not exceed £5 per annum,	£0	5	0
Where it exceeds £5, but does not exceed £15,	0	10	0
Where it exceeds £15, but does not exceed £50,	1	0	0
Where it exceeds £50, but does not exceed £100,	1	10	0
Where it exceeds £100, but does not exceed £200,	2	0	0
Where it exceeds £200,	3	0	0

SOLICITORS' BUILDINGS, FOUR COURTS,
DUBLIN, 22*nd March* 1905.

APPENDIX D.

SOME ADDITIONAL INVESTMENTS FOR TRUSTEES UNDER SECTION 51 OF THE IRISH LAND ACT, 1903.*

Corporation Bonds, Debentures, and Mortgages eligible under Section 51 (1) (*a*).†

Present Amount.	Name.	Redeemable.	Per Cent.	Price on 27th Jan. 1906.	Yield per Cent.	Dividends due.
					£ s. d.	
£128,377	Bray Township Deb. Stk. .	1951	3¾	103	3 12 6	Jan., July.
£54,200	Kingstown Urban Dist. . .	1934–64	3¾	102¼	3 12 6	,, ,,
£28,860	Lurgan Township	1945	3	90	3 7 3	May, Nov.
£144,940	Pembroke Township . . .	1914–44	3¼	91	3 12 3	April, Oct.
£82,195	Rathmines & Pem. Drainge.	1938	4	106	3 13 6	Jan., July.
£223,744	Waterford	1906–50	3¼	91	3 11 9	June, Dec.

Debentures or Mortgages of Railway Companies in the United Kingdom elegible under Section 51 (1) (*c*).

Present Amount.	Name.	Per Cent.	Price on 27th Jan. 1906.	Yield per Cent.	Dividends due.
				£ s. d.	
£35,000	Cork, Bandon and South Coast (Bantry Extension)	5	140	3 11 9	Jan., July.
£43,330	Cork, Blackrock and Pass., 1846 .	4	77	5 4 3	,, ,,
£152,465	Donegal	3	91	3 6 6	May, Nov.
£320,812	Dublin, Wicklow, and Wexford . .	4	93	4 7 3	April, Oct.
£257,985	,, ,, ,, . .	4½	103	4 3 9	,, ,,
£94,430	,, ,, ,, . .	4½	106	4 6 3	,, ,,
£80,000	,, (under Act 1894) . .	4	92	4 8 3	,, ,,
£10,900,666	Great Central	4½	132	3 8 6	Jan., July.
£1,530,607	Highland	4	119¼	3 7 9	May, Nov.
£5,522,670	London, Chatham, and Dover Arb.	4½	130	3 9 3	Jan., July.
£1,211,625	Metropolitan District	6	153	3 18 9	,, ,,
£100,000	Sligo, Leitrim and North. Counties	3½	89	3 19 0	,, ,,
£40,000	,, ,, ,, .	4	98	4 1 9	,, ,,

* Only eligible with the consent of the Public Trustee (Sect. 51 (1) (*f*)).

† It does not seem clear that the other Corporation Stocks given in the monthly investment list come within the terms of the Section. The Harbour Bonds are excluded because it seems doubtful whether a Harbour Board is a "local authority," and whether harbour dues are "rates or taxes." A number of Corporation Stocks are eligible under the Trustee Act, 1893. A list of some of these Stocks will be found at p. 237 *post*.

STOCKS OR SHARES OF ANY TRAMWAY OR LIGHT RAILWAY GUARANTEED UNDER THE TRAMWAYS (IRELAND) ACTS, 1860 TO 1900, ELEGIBLE UNDER SECTION 51 (1) (*d*).

Present Amount.	NAME.	Per Cent.	Price on 27th Jan. 1906.	Yield per Cent.	Dividends due.
				£ s. d.	
£9800	Athenry & Tuam Extensions, Limited (£10 shs.)	4	$11\frac{3}{8}$	3 10 9	May, Nov.
£14,328	Ballinrobe & Claremorris, Limited (£5 shs.)	5	$6\frac{7}{8}$	3 13 6	,, ,,
£40,400	Cavan & Leitrim, Limited (£5 shs.)	5	$6\frac{3}{4}$	3 15 6	Feb., Aug.
£12,331	Clogher Valley, Limited (£10 shs.)	5	$13\frac{7}{8}$	3 13 0	April, Oct.
£15,000	Cork & Muskerry, Limited (£5 shs.)	5	$6\frac{7}{8}$	3 14 0	Mar., Sep.
£6,000	Donoughmore Extension, Limited (£5 shs.)	4	$5\frac{1}{4}$	3 17 9	,, ,,
£10,889	Loughrea & Attymon, Limited (£5 shs.)	5	$6\frac{7}{8}$	3 13 6	May, Nov.
£57,000	Schull & Skibbereen (£1 sh.) . . .	5	26	3 18 3	April, Sep.
£12,000	South Clare, Limited (£10 shs.) . .	4	11	3 14 0	Mar., Sep.
£1,200	Timolea. & Courtmacsherry (£5 shs.)	5	$6\frac{1}{2}$	3 18 0	April, Oct.
£16,350	West Clare, Limited (£10 shs.) . .	4	$11\frac{1}{16}$	3 13 6	Mar., Sep.

DEBENTURES OR FULLY PAID STOCKS OR SHARES OF ANY RAILWAY WHICH FOR TEN YEARS PRECEDING INVESTMENT HAS PAID A DIVIDEND ON ITS ORDINARY SHARES, ELIGIBLE UNDER SECTION 51 (1) (*f*).*

Present Amount.	NAME.	Dividends.		Price on 27th Jan. 1906.	Yield per Cent.	Dividends due.
		Previous half-year.	Last half-year.			
	HOME RAILWAYS—ORDINARY STOCKS AND SHARES.					
					£ s. d.	
£419,280	Belfast & County Down .	6	6	$128\frac{1}{4}$ c.d.	4 15 9	Mar., Sep.
£5,714,899	Caledonian	4	$3\frac{3}{4}$	120	3 4 6	April, Oct.
£12,745,110	,, Pref. Conv. .	3	3	$79\frac{1}{2}$	3 16 6	,, ,,
£6,097,920	Glasgow & South-Western Pref. Conv.	$2\frac{1}{2}$	$2\frac{1}{2}$	$65\frac{1}{2}$	3 17 3	,, ,,

* The above Companies have paid dividends for ten years, ending on the last dividend day of 1905. Before making an investment therein it will be necessary to ascertain that they have continued to pay dividends on their ordinary shares up to the date of investment. Although it does not seem at all clear that deferred ordinary shares are excluded from the Section, they are nevertheless left out of the following list, because it is thought that they are not a suitable investment for trustees. Where, however, a company has paid dividends for ten years on its ordinary shares, but not on its deferred ordinary, the ordinary shares would appear to be eligible, and that company is therefore included in the list. (See Rudall and Greig's "Law of Trusts," where companies in a similar position are treated as eligible under Sect. 1 (*g*) of the Trustee Act, 1893.) Where a company has omitted to pay a dividend for a half-year only, it is not included, although it does not seem quite certain that it is thereby rendered ineligible. Although ordinary shares are eligible for investment under the Act of 1903, it seems hardly likely that the Public Trustee will sanction their purchase in view of the opinion expressed by the Court of Appeal in *The Public Trustee* v. *Blacker-Douglas* [1905], 1 I. R. 532. See *Addenda*, p. 110.

ORDINARY STOCKS AND SHARES (*Continued*).

Present Amount.	Name.	Dividends. Last half-year.	Dividends. Previous half-year.	Price on 27th Jan. 1906.	Yield per Cent. £ s. d.	Dividends due.
£15,362,886	Great Eastern	1½	5	88¼*c.d*	3 13 9	Feb., Aug.
£3,807,097	Great Northern (Ireland) .	6¼	6¾	158¾*c.d*	4 3 9	Mar., Sept.
£5,325,520	Great Southern & Western	3½	4	88¼*c.d.*	4 6 9	,, ,,
£32,088,355	Great Western	7	3¾	143½	3 15 0	Feb., Aug.
£18,369,652	Lancashire & Yorkshire .	3¼	3¾	109½*c.d.*	3 9 9	,, ,,
£3,331,980	London, Brighton & South Coast	3¼	8	141*c.d.*	4 2 0	,, ,,
£3,182,810	London, Brighton & South Coast, Preferred . . .	6	6	155*c.d.*	3 19 0	,, ,,
£42,885,115	London & North Western .	6½	5	161½	3 11 6	,, ,,
£8,628,578	London & South Western .	4	8	162½*c.d.*	3 15 9	,, ,,
£4,446,200	,, ,, Pref. Conv.	4	4	107*c.d.*	3 16 3	,, ,,
£5,731,830	Metropolitan Cons. . . .	2½	2¼	85½*c.d.*	2 16 3	Jan., July.
£2,640,914	,, Surplus Lands	2⅝	2⅝	77*c.d.*	3 19 6	,, ,,
£38,379,616	Midland (England) Pref. Con.	2½	2½	69½	3 13 0	Feb., Aug.
£2,370,000	Midland Great Western .	3	3	64½*c.d.*	4 15 6	Mar., Sept.
£31,406,586	North Eastern	4¾	6¼	146¼*c.d.*	3 18 6	Feb., Aug.
£3,494,650	North Staffordshire . . .	3¾	4½	104*c.d.*	4 1 0	,, ,,
	INDIAN RAILWAYS.					
£3,000,000	Bengal, Nagpur, Ltd., 1913	4	4	103½	3 9 3	Jan., July.
£7,550,300	Bombay, Baroda & Central India	5 9/10	8	154½	...	,, ,,
£2,250,000	Indian Midland, Ltd., 1910	4	4	102½	3 7 9	,, ,,
£8,757,670	Madras (Guar. 5 %) . . .	5	5	125½	4 0 0	,, ,,
£2,000,000	Nizam's State Rails, Ltd. .	5	5	123½	4 1 0	,, ,,
£3,500,000	South Mahratta, Ltd., 1907–27	5	5	102½	...	,, ,,
	FOREIGN RAILWAYS.					
£1,846,880 (Stk.)	Antofagasta & Bol., Ltd.	10 for 1904		227½	4 8 0	June, Dec.
£1,000,000 ,,	,, Perp. Deb. Stk.	4	4	103	3 17 9	Jan., July.
£12,000,000 ,,	Buenos Ayres, Great South, Ltd.	6	8	142	4 18 6	April, Oct.
£4,000,000 ,,	,, ,, Preference	5	5	129	3 18 3	,, ,,
£7,500,000 ,,	,, ,, Deb. Stock . .	4	4	108	3 14 3	Jan., July.
£187,500 ,,	Buenos Ayres Western, Ltd.	6	8	138½	5 1 0	April, Oct.
£30,000 10	,, Preference . .	5	5	12½	4 0 9	,, ,,
£5,360,645 (Stk.)	,, Deb. Stock . .	4	4	107½	3 14 9	Jan., July.
£3,000,000 ,,	San Paulo, Ltd.	12	12	207	5 16 0	April, Oct.
£1,000,000 ,,	,, Non-Cum. Pref.	5	5	123	4 2 0	,, ,,
£750,000 ,,	,, Perm. Deb. Stk.	5½	5½	133	4 3 3	Jan., July.
£250,000 ,,	,, ,, ,, ,,	5	5	124	4 1 0	,, ,,

SOME INVESTMENTS FOR TRUSTEES UNDER THE TRUSTEE ACT, 1893.

Government Funds, &c.

Present Amount.	Name of Stocks.	Redeemable.	Per Cent.	Price on 27th Jan. 1906.	Yield per Cent. £ s. d.	Dividends due.	Section under which elegible.
£589,781,954	Consols 2½% Cons. Stock . . .	1923	2½	90	2 15 9	Jan., April. July, Oct.	Sec. 1 (*a*)
£31,211,180	Annuities 2½ % . .	1905	2½	88¾	2 16 6	,, ,,	,,
£11,000,000	Irish Land Guar. .	1933	2¾	91	3 0 9	Jan., July.	,,
£30,000,000	National War Loan .	1910	2¾	98¾	3 4 6	Jan., April. July, Oct.	,,
£62,408,768	Local Loans Stock .	1912	3	99½	3 0 6	,, ,,	,,
£13,179,463	Guaranteed Land Stock	1921	2¾	91	3 0 9	Jan., July.	,,
£35,000,000	Transvaal Gov. Guar.	1923–53	3	99¼	3 0 9	May, Nov.	Sec. 1 (*e*)
£62,849,476	India Stock . . .	5 Jan. 1931	3½	105¾	3 3 9	Jan., April. July, Oct.	Sec. 1 (*d*)
£52,635,384	,, ,, ...	5 Oct. 1948	3	96¾	3 2 3	,, ,,	,,
£11,892,207	,, ,, ...	5 Oct. 1926	2½	80½	3 2 6	,, ,,	,,

Corporation Stocks, Debentures, &c.

With regard to these Stocks, trustees should remember that they must not purchase at a price exceeding its redemption value any stock which is liable to be redeemed within fifteen years of the date of purchase at par or at some other fixed rate; or purchase any Stock which is liable to be redeemed at par or at some other fixed rate, at a price exceeding 15 per cent. above par or such other fixed rate. See Section 2 (2) Trustee Act, 1893, *ante* p. 107.

Present Amount.	Name of Stocks.	Redeemable.	Per Cent.	Price on 27th Jan. 1906.	Yield per Cent. £ s. d.	Dividends due.	Section under which elegible.
£230,340	Belfast	1912–15	3⅜	95 13/16	3 10 9	Jan., April. July, Oct.	Sec. 1 (*m*)
£147,130	,, ...	1921	3½	99⅞	3 10 3	,, ,,	,,
£174,080	,, ...	1924	3¼	92½	3 10 6	,, ,,	,,
£449,940	,, ...	1928	3½	101½	3 8 3	,, ,,	,,
£394,180	,, ...	1940	3½	101¼	3 9 0	,, ,,	,,
£200,000	,, ...	1915–55	3	87¼	3 9 0	,, ,,	,,
£1,000,000	,, ...	1935	3½	102⅜	3 7 6	Jan. July.	,,

CORPORATION STOCKS, DEBENTURES, &c. (*Continued*).

Present Amount.	Name of Stocks.	Redeemable.	Per Cent.	Price on 27th Jan. 1906.	Yield per Cent.	Dividends due.	Section under which elegible.
					£ s. d.		
£547,970	Belfast Water Commissioners . . .	1938	3½	102	3 9 3	April, Oct.	Sec. 1 (*n*)
£250,000	,, ,, . . .	1926	3½	102	3 9 0	,, ,,	,,
£130,000	,, ,, . . .	1963	3½	102	3 9 6	,, ,,	,,
£675,000	,, ,, . . .	1953–6–8	3	86½	3 9 6	Jan., July.	,,
£3,650,000	Birmingham . . .	1946 or after.	3½	105	3 5 9	,, ,,	Sec. 1 (*m*)
£2,202,576	Bristol	Redeemable only with consent of holders.	3½	107	3 6 0	May, Nov.	,,
£1,900,476	Cardiff	1935	3½	103	3 8 3	Jan., July.	,,
£162,300	Cork Corporation . .	Redeemable by drawings.	3½	100¼	3 10 6	May, Nov.	,,
£1,633,859	Dublin	1944	3¼	96	3 8 0	Jan., July.	,,
£1,850,000	Edinburgh	1924 or after.	3	93½	3 4 9	May, Nov.	,,
£1,250,000	Glasgow	1914	3½	101⅝	3 7 9	,, ,,	,,
£2,340,250	Leeds	1927	4	109	3 8 3	Jan., July.	,,
£1,256,908	Leicester	1934	3½	102	3 8 3	,, ,,	,,
£6,291,084	Liverpool	—	3½	109	3 4 6	Jan., April. July, Oct.	,,
£16,936,638	London, Metropolitan . . .	1929	3½	104½	3 5 0	,, ,,	Sec. 1 (*f*)
£10,845,923	,, ,, . . .	1941	3	97	3 2 0	Feb., Mar. Aug., Nov.	,,
£7,551,855	,, ,, . . .	1919–49	2½	82	3 1 6	Mar., June. Sept., Dec.	,,
£3,574,867	Manchester . . .	Redeemable only with consent of holders.	4	127¼	3 3 3	June, Dec.	Sec. 1 (*m*)
£5,088,120	,, ...	1941 or after.	3	93¾	3 6 3	Feb., Aug.	,,
£2,946,723	Nottingham . . .	Irredeemable.	3	92	3 6 0	May, Nov.	,,

RAILWAYS.

Trustees should remember when making any investment authorised by Section 1, Sub-sections (*g*) (*i*) (*k*) (*l*) or (*m*), that they must not

(1) Purchase at a price exceeding its redemption value any stock which is liable to be redeemed within fifteen years of the date of purchase at par or at some other fixed rate; or,

(2) Purchase any stock which is liable to be redeemed at par or at some other fixed rate, at a price exceeding 15 per cent. above par or such other fixed rate. See Section 2 (2) Trustee Act, 1893, *ante* page 107.

Home Railways.

LINES LEASED AT FIXED RENTALS.

Present Amount.	Name.	Per Cent.	Price on 27th Jan. 1906.	Yield per Cent. £	s.	d.	Dividends due.		Section under which elegible.
£1,941,506	Birkenhead	4	120	3	6	9	Jan.,	July.	Sec. 1 (*g*).
£1,014,000	Nottingham & Grantham . .	4	120	3	8	6	Feb.,	Aug.	Sec. 1 (*h*).

DEBENTURE STOCKS.

£1,220,031	Barry	3	92	3	5	6	Jan.,	July.	Sec. 1 (*g*).
£209,016	Belfast & County Down . . .	4	115	3	9	9	,,	,,	,,
£138,000	,, ,, ...	3	86	3	10	0	,,	,,	,,
£10,834,291	Caledonian	4	124	3	5	0	May,	Nov.	,,
£207,957	Cork, Bandon & South Coast .	4	107¼	3	14	9	Jan.,	July.	Sec. 1 (*o*).
£75,630	Cork & Macroom	4	103	3	18	0	Jan.,	July.	Sec. 1 (*o*).
£723,333	Forth Bridge	4	119	3	7	6	June,	Dec.	Sec. 1 (*g*).
£2,296,123	Furness	3	89	3	7	9	Jan.,	July.	Sec. 1 (*o*).
£4,239,350	Glasgow & South Western . .	4	123*x.d.*	3	5	0	Feb.,	Aug.	Sec. 1 (*g*).
£17,761,341	Great Eastern	4	122	3	5	9	Jan.,	July.	Sec. 1 (*o*).
£1,439,060	Great Northern of Scotland .	4	119	3	7	9	May,	Nov.	,,
£14,829,613	Great Northern (England) .	3	94	3	4	0	Jan.,	July.	Sec. 1 (*g*).
£2,200,164	Great Northern (Ireland) . .	4	120	3	6	9	,,	,,	,,
£3,974,834	Great Southern & Western .	4	117½	3	8	0	,,	,,	,,
£11,659,479	Great Western	4	126	3	3	9	,,	,,	,,
£4,552,717	,, ,, ...	4½	138	3	5	3	,,	,,	,,
£2,963,645	,, ,, ...	5	153	3	5	6	,,	,,	,,
£18,914,677	Lancashire & Yorkshire . .	3	94	3	4	3	,,	,,	,,
£1,306,239	London, Brighton & South Coast	4	121	3	6	3	,,	,,	,,
£5,303,470	,, ,, Perpetual	4½	136	3	6	3	,,	,,	,,
£39,008,202	London & North Western . .	3	97½	3	1	6	,,	,,	,,
£13,226,142	London & South Western . .	3	95	3	3	3	,,	,,	,,
£3,601,278	Metropolitan	3½	103	3	8	0	Jan.,	July.	Sec. 1 (*o*).
£40,563,562	Midland (England)	2½	79	3	3	6	,,	,,	Sec. 1 (*g*).
£1,376,927	Midland Great Western . .	4	111	3	12	3	,,	,,	,,
£769,339	,, ,, . .	4¼	118	3	12	3	,,	,,	,,
£201,700	,, ,, . .	4½	123¾	3	13	0	,,	,,	,,
£15,617,326	North British	3	93	3	5	0	May,	Nov.	Sec. 1 (*o*).
£23,266,238	North Eastern	3	94	3	4	3	Jan.,	July.	Sec. 1 (*g*).
£1,456,085	South Eastern	4	117	3	8	6	,,	,,	Sec. 1 (*o*).
£4,342,440	,, ...	5	147	3	8	3	,,	,,	,,
£1,526,258	Taff Vale	3	90	3	6	9	,,	,,	,,

GUARANTEED STOCKS.

£248,141	Belfast & County Down . . .	5	139½	3	13	0	Mar.,	Sept.	Sec. 1 (*g*).
£3,667,164	Caledonian Cons.	4	121	3	7	0	April,	Oct.	,,
£48,000	Cork, Bandon & South Coast	5½	146	3	16	9	Mar.,	Sept.	Sec. 1 (*o*).
£38,246	,, ,, ,,	4	106	3	17	0	,,	,,	,,
£4,966,596	Great Eastern Cons. Irred. . .	4	117	3	9	6	Feb.,	Aug.	Sec. 1 (*o*).

GUARANTEED STOCK (*Continued*).

Present Amount.	Name.	Per Cent.	Price on 27th Jan. 1906.	Yield per Cent. £	s.	d.	Dividends due.		Section under which eligible.
£3,435,740	Great Northern (England) . .	4	121	3	7	0	Feb.,	Aug.	Sec. 1 (*g*).
£869,270	Great Northern (Ireland) Cons.	4	119½	3	7	0	Jan.,	July.	,,
£2,776,184	Great Southern & Western .	4	115	3	10	9	Mar.,	Sept.	,,
£7,610,878	Great Western, Rent-charge .	5	151	3	6	3	Feb.,	Aug.	,,
£17,904,662	,, Consolidated	5	153	3	6	6	,,	,,	,,
£2,596,012	Lancashire & Yorkshire, Cons.	4	121	3	7	0	,,	,,	,,
£1,955,860	London & Brighton, Cons. .	5	149	3	8	3	,,	,,	,,
£15,100,406	London & North Western, Cons.	4	124	3	5	3	,,	,,	,,
£17,944,721	Midland (England), Guar. Pref.	2½	78	3	5	3	,,	,,	,,
£1,200,000	Midland & Great Northern, Joint Rent-charge A. . .	3	89	3	7	6	Jan.,	July.	,,
£452,236	Midland Great Western, Rent-charge	4	109¾	3	14	0	Mar.,	Sept.	,,
£7,623,775	North British, Cons. Lien .	3	91*x.d.*	3	6	0	Feb.,	Aug.	Sec. 1 (*o*).
£2,444,129	,, No. 1 . . .	4	120	3	7	6	April,	Oct.	,,
£8,466,903	North Eastern, Cons. . . .	4	123	3	6	0	Feb.,	Aug.	Sec. 1 (*g*).

PREFERENCE STOCKS AND SHARES.

£50,000	Belfast & County Down . .	4½	123	3	13	6	Jan.,	July.	Sec. 1 (*g*).
£200,000	,, ,, . . .	4	113½	3	11	9	Mar.,	Sept.	,,
£3,579,935	Caledonian, Cons. No. 1 . .	4	117	3	9	3	April,	Oct.	,,
£2,946,341	,, ,, No. 2 . .	4	116	3	9	9	,,	,,	,,
£4415	Cork & Macroom (£10 shares)	5	12 1/16	4	4	6	Mar.,	Sept.	Sec. 1 (*o*).
£1,892,150	Glasgow and South Western .	4	117	3	9	3	,,	,,	Sec. 1 (*g*).
£11,866,708	Great Eastern, Cons. . . .	4	116	3	10	3	Feb.,	Aug.	Sec. 1 (*o*).
£12,819,520	Great Northern (England), Perp.	4	119	3	8	6	,,	,,	Sec. 1 (*g*).
£2,439,980	,, ,, 1896 .	3	89	3	8	6	,,	,,	,,
£1,315,620	Great Northern (Ireland), Cons.	4	120	3	7	9	Mar.,	Sept.	,,
£1,184,433	Great Southern & Western .	4	110	3	14	0	,,	,,	,,
£11,903,494	Great Western, Cons. . . .	5	151	3	7	9	Feb.,	Aug.	,,
£25,400,900	Lancashire & Yorkshire, Cons.	3	91	3	7	0	,,	,,	,,
£6,190,315	London & Brighton, Cons. . .	5	146	3	9	9	Feb.,	Aug.	Sec. 1 (*g*).
£2,882,000	,, ,, 2nd Cons.	5	145	3	10	3	,,	,,	,,
£23,080,620	London & North Western, Cons.	4	123	3	6	0	,,	,,	,,
£8,944,992	London & South Western, Cons.	4	121	3	7	3	,,	,,	,,
£6,121,135	,, ,,	3½	105	3	7	9	,,	,,	,,
£55,238,916	Midland (England), Perp. .	2½	77	3	5	9	,,	,,	,,
£300,000	Midland Great Western . .	5	135	3	15	6	Mar.,	Sept.	,,
£1,040,159	,, ,,	4	106½	3	16	6	,,	,,	,,
£3,850,198	North British, Cons. No. 2 .	4	116	3	9	9	April,	Oct.	Sec. 1 (*o*).
£14,451,515	North Eastern, Cons. . . .	4	121	3	7	3	Feb.,	Aug.	Sec. 1 (*g*).
£3,043,333	North Staffordshire	3	88	3	9	3	,,	,,	,,
£2,172,580	South Eastern, Cons. . . .	4½	125	3	12	3	Jan.,	July	Sec. 1 (*o*).
£2,640,820	,, ,, . . .	5	140	3	11	9	,,	,,	,,
£2,133,277	Taff Vale	4	117	3	9	6	Feb.,	Aug.	,,

RAILWAYS—INDIAN.

Present Amount.	Name.	Dividends. Previous half-year	Dividends. Last half-year	Price on 27th Jan. 1906.	Yield per Cent. £ s. d.	Dividends due.	Section under which elegible.
£104,143	E. Indian C. Ann. 1953	8/8½	8/8½	25½	3 9 3	April, Oct.	Sec. 1 (*j*).
£524,000¾	,, B. Ann. 1953	9/3½	9/3½	27	3 9 9	,, ,,	,,
£4,174,308½	,, Def. Ann. D. 1953	5/ 9/9	5/ 10/3	137½	4 0 3	Jan., July.	,,
£1,435,650	,, Irred. Deb. Stk.	4½	4½	137	3 6 6	April, Oct.	Sec. 1 (*i*).
£8,000,000	,, New ,,	3–3	3–3	92*x d.*	3 5 3	F., M., A., N.	,,
£74,936	East Bengal B. Ann. 1957	9/	9/	26	3 10 3	April, Oct.	Sec. 1 (*j*).
£1,023,691	Great Indian Peninsula Ann. "B." 1948 . .	7/1½	7/1½	21½	3 6 6	Jan., July.	,,
£2,575,000	Great Indian Peninsula Guar. Stk. 1925 . .	3	5 7/6	111	3 7 9	,, ,,	Sec. 1 (*k*).
£2,701,450	Great Indian Peninsula Irred. Deb. Stk. . .	4	4	121½	3 6 3	,, ,,	Sec. 1 (*j*).
£300,264	Scinde Punjab Ann. B. 1958	9/1	9/1	26	3 10 6	,, ,,	,,

BANKS.

Share.	Paid.	Name.	Dividends. Previous half-year.	Dividends. Last half-year.	Price on 27th Jan. 1906.	Yield per Cent. £ s. d.	Reserve and Balance.	Dividends due.	Section under which elegible.
Stk.	100	Bank of England	9	9	294½	3 1 3	3,015,661	April, Oct.	Sec. 1 (*c*).
,,	100	Bank of Ireland	11½	11½	327	3 10 3	1,047,590	Feb., Aug.	,,

WATER WORKS.

Present Amount.	Stock or Share.	Name.	Dividends. Previous half-year.	Dividends. Last half-year.	Price on 27th Jan. 1906.	Yield per Cent. £ s. d.	Dividends due.	Statute under which elegible.
£27,784,609	Stk.	Metropolitan Water Board, 1934 . .	3	3	97¾	3 2 0	Mar., Sept.	Metropolis Water Act, 1902.
£175,785	,,	Chelsea Perp. Deb. Stk.	4½	4½	140½	3 4 9	,, ,,	,, ,,
£654,740	,,	East London Deb. Stk.	4½	4½	143½	3 3 0	Jan., July.	,, ,,
£1,596,426	,,	East London Deb. 1919–27 . . .	3	3	94	3 4 3	,, ,,	,, ,,
£350 000	,,	Lambeth Deb. Stk. .	4	4	124½	3 5 0	April, Oct.	,, ,,
£602,895	,,	,, ,,	3	3	95	3 3 9	,, ,,	,, ,,
£1,000,000	,,	New River Deb. Stk.	4	4	122½	3 5 3	Feb., Aug.	,, ,,
£850,000	,,	,, "D" ,,	3	3	94	3 3 9	,, ,,	,, ,,
£1,019,585	,,	Southwark & Vauxhall "A" Db. .	4	4	124½	3 4 9	April, Oct.	,, ,,
£911,852	,,	Southwark & Vauxhall "B" Db. 21–8	3	3	94½	3 4 3	,, ,,	,, ,,
£550,000	,,	W. Middlx. Deb. Stk.	3	3	95	3 3 9	,, ,,	,, ,,

INVESTMENTS FOR TRUSTEES UNDER THE COLONIAL STOCK ACT, 1900.

The following stocks have from time to time been listed in the London Gazette as stocks in respect of which the provisions of the Colonial Stock Act, 1900, have been complied with.

Trustees should however remember that they must not purchase at a price exceeding its redemption value any stock which is liable to be redeemed within fifteen years of the date of purchase at par or at some other fixed rate, or purchase any stock which is liable to be redeemed at par or at some other fixed rate, at a price exceeding 15 per cent. above par or such other fixed rate. See Section 2 (2) Trustee Act, 1893, *ante* p. 107.

Name of Stock.	Redeemable.	Per Cent.	Price on 4th Jan. 1906.	Yield per Cent.	Dividends due.
				£ s. d.	
Barbadoes Inscribed . . .	1925–42	3½	100–2	3 8 6	Mar. 15, Sept. 15.
British Guiana Inscribed . .	1935	4	104–6	3 14 3	Jan. 15, July 15.
,, ,, ,, . .	1923–45	3	87–9 *x.d.*	3 8 3	Feb. 1, Aug. 1.
Canada Stock Registered . .	1905–6–8	4	100–2	—	May 1, Nov. 1.
,, 1874, Convertible . .	1907	4	102–4	—	,, ,,
,, Reduced Registered .	1910	4	102–3	—	Jan. 1 July 1.
,, Stock Registered . .	1909–34	3½	100–2	—	June 1, Dec. 1.
,, Loan	1910–35	4	102–3	—	Jan. 1, July 1.
,, Stock Registered . .	1938	3	97–8	3 1 6	,, ,,
,, Inscribed Stock . .	1947	2½	85–7	2 18 3	April 1, Oct. 1.
Cape of Good Hope Inscribed Stock of 1882	1917–23	4	102–4	—	June 1, Dec. 1.
Cape of Good Hope Inscribed Stock of 1883	1923	4	105–7	3 10 9	,, ,,
Cape of Good Hope Consolidated Stock	1916–36	4	102½–3½	—	April 15, Oct. 15.
Cape of Good Hope Consolidated Stock	1929–49	3½	98–9	3 11 0	Jan. 1, July 1.
Cape of Good Hope Consolidated Stock	1933–43	3	85–6 *x.d.*	3 10 3	Feb. 1, Aug. 1.
Ceylon Inscribed	1934	4	112–14	3 5 6	Feb. 15, Aug. 15.
,, ,, ...	1940	3	93–5	3 3 9	May 1, Nov. 1.
Gold Coast Inscribed . . .	1927–52	3	85–6	3 10 3	Mar. 1, Sept. 1.
Grenada Inscribed	1917–42	4	100–2	—	May 15, Nov. 15.
Hong-Kong Inscribed . . .	1918–43	3½	98–100	3 10 9	April 15, Oct. 15.
Jamaica Inscribed	1934	4	—	3 8 9	Feb. 15, Aug. 15.
,, ,, ...	1922–44	3	85–6	3 10 3	Jan. 1, July 1.
,, ,, ...	1919–49	3½	99–101 *x.d.*	3 10 0	Jan. 24, July 24.
Mauritius Inscribed	1937	4	107–9 *x.d.*	3 11 3	Feb. 1, Aug 1.
Natal Consolidated Inscribed .	1927	4	106–8	3 10 3	May 15, Nov. 15.
,, ,, ,, .	1937	4	110–12	3 8 3	April 1, Oct. 1.
,, ,, ,, .	1914–39	3½	99–101	3 10 0	June 1, Dec. 1.
,, ,, ,, .	1929–49	3	86–8	3 9 0	Jan. 1, July 1.
,, Consolidated	1934–44	3½	98–9 *x.d.*	3 11 0	Feb. 1, Aug. 1.
New South Wales Inscribed .	1933	4	105–7	3 12 9	Jan. 1, July 1.
,, ,, ,, .	1924	3½	99½–100½	3 10 0	April 1, Oct. 1.
,, ,, ,, .	1918	3½	99–100	3 10 3	Mar. 1, Sept. 1.
,, ,, ,, .	1935	3	87–8	3 8 6	April 1, Oct. 1.

Name of Stock.	Redeemable.	Per Cent.	Price on 4th Jan. 1906.	Yield per Cent.	Dividends due.
				£ s. d.	
New Zealand Consolidated Stock Inscribed	1929	4	106–7	3 12 3	May 1, Nov. 1.
New Zealand Stock	1940	3½	98–9	3 11 0	Jan. 1, July 1.
,, Inscribed	1945	3	87–8	3 8 6	April 1, Oct. 1.
Queensland Inscribed	1915	4	102–4	—	Jan. 1, July 1.
,, ,,	1924	4	104–5	3 13 3	,, ,,
,, ,,	1921–24–30	3½	98½–9½	3 10 9	,, ,,
,, ,,	1945	3½	99–100	3 10 3	,, ,,
,, ,,	1922–47	3	85½–6½	3 9 9	,, ,,
Sierra Leone Inscribed	1929–54	3½	97–9	3 11 6	June 1, Dec. 1.
St. Lucia Inscribed	1919–44	4	102–4	—	Feb. 15, Aug. 15.
South Australian	1916–17–36	4	102–4	—	April 1, Oct. 1.
,, ,,	1924	4	105–7	3 10 9	,, ,,
,, ,,	1939	3½	99–100	3 10 3	Jan. 1, July 1.
,, ,,	1916–26	3	86–7	3 9 3	,, ,,
,, ,,	1916	3	86–7	3 9 3	,, ,,
Tasmanian Inscribed	1920–40	3½	98–9	3 11 0	,, ,,
,, ,,	1920–40	4	105–7	—	,, ,,
,, ,,	1920–40	3	87–9	3 8 3	,, ,,
Trinidad Inscribed	1917–42	4	101–3	—	Mar. 15, Sept. 15.
,, ,,	1922–44	3	88–90	3 7 6	Jan. 15, July 15.
Victoria (Railway Loan, 1881)	1907	4	100–1	—	Jan. 1, July 1.
,, (Loans of 1882 and '83)	1908–13	4	100–3	—	April 1, Oct. 1.
,, (Loan of 1884)	1919	4	102–4	—	,, ,,
,, (Loan of 1885)	1920	4	103–5	—	Jan. 1, July 1.
,, Inscribed	1921–26	3½	98½–9½	3 10 9	,, ,,
,, ,,	1923	3½	98½–9½	3 10 9	,, ,,
,, ,,	1911–26	4	101½–2½	—	,, ,,
Victoria Consolidated Inscribed	1929–49	3	86½–7½	3 9 0	Jan. 1, July 1.
,, ,, ,,	1929–49	3½	98½–9½	3 10 9	April 1, Oct. 1.
Western Australia Inscribed	1934	4	106–8	3 11 9	Jan. 15, July 15.
,, ,, ,,	1911–31	4	101–3	—	April 15, Oct. 15.
,, ,, ,,	1915–35	3½	96½–7½	3 12 3	May 1, Nov. 1.
,, ,, ,,	1920–35	3½	96½–7½	3 12 3	,, ,,
,, ,, ,,	1915–35	3	85–7	3 9 9	,, ,,
,, ,, ,,	1916–36	3	85–7	3 9 9	June 1, Dec. 1.
,, ,, ,,	1927	3	86–7	3 9 3	Jan. 15, July 15.

APPENDIX E.

EXTRACTS FROM *AD INTERIM*

REPORT OF THE ESTATES COMMISSIONERS

FOR THE PERIOD FROM

1ST NOVEMBER 1903 TO THE 31ST DECEMBER 1904.*

Dated 10*th April* 1905.

I.

Direct Sales by Landlords to Tenants, i.e. *to persons other than the Land Commission* (*Sections* 1 *to* 5 *of the Act*).

Procedure.

Proceedings under the Irish Land Act, 1903, by a Vendor for the sale of an Estate to persons other than the Land Commission are commenced by the lodgment of an application termed an Originating Application, in the form prescribed in the Provisional Rules of 23rd October 1903, which is accompanied by certain prescribed documents.

This Application is checked, and if it, and the accompanying documents, are found to be in conformity with the Rules, it is filed and given a Record Number, and, in due course, comes before the Commissioners for consideration.

"Separate Estate."

As regards the declaration that lands, comprised in an Application, are fit to be regarded as a "Separate Estate," or the refusal so to declare them, the practice of the Commissioners has been as follows:—

In many cases the Owners of lands have asked the Commissioners whether they would be likely to declare certain lands to be a "Separate Estate," before such Owners undergo the expense of filing a formal Originating Application and entering into negotiations with their tenants for purchase. As a rule, the Commissioners have been able, from an examination of the Rental and Estate Map, to intimate to the Owner whether they would be prepared to regard, or would refuse to regard the lands proposed to be sold as a "Separate Estate" for the purposes of the Act, and thus the cases in which Applications have been actually lodged and in which the Commissioners have subsequently refused to regard the lands as a "Separate Estate" have been few, since, where the Commis-

* A further Report was issued on 27th July 1905 for the period from 1st November 1903 to 31st March 1905.

sioners were not prepared to regard any particular lands as a "Separate Estate," they so informed the Vendor before formal Applications were lodged. Where the property proposed to be sold as a "Separate Estate" consists of a Townland or a number of adjacent Townlands in a compact block, the Commissioners have generally intimated to the Owners that they would be willing to declare such lands to be a "Separate Estate," even though the Owner may have other lands adjacent, or at a distance, which he does not propose to sell at the same time; but the Commissioners generally insist on all the lands included in the block being in the first instance comprised in the Estate. It would obviously delay sales to no purpose to insist on the whole of a large property situated, it may be, in different counties being brought in for sale at one time and included in one Application.

Where the lands comprised in the Application consist of a single holding, or where the Vendor desires to leave out of the sale a considerable number of chequered holdings situated within the ambit of the block, or where he has untenanted lands in his occupation which may be required for the purpose of enlarging holdings, and has not included them in the lands proposed to be sold as an estate, or where the estate is badly congested and the holdings are manifestly inadequate security for the prices agreed upon and there are no apparent means of improving or enlarging them, the Commissioners have refused to declare the lands to be a "Separate Estate" for the purposes of the Act.

When an Originating Application comes before the Commissioners for consideration, they, if satisfied with the Vendor's proposals, make an order provisionally declaring the lands fit to be regarded as a "Separate Estate." This provisional declaration may be made either before or after agreements to purchase have been entered into between landlord and tenant; but it is liable to be altered or cancelled on receipt of fuller information, as to the circumstances of the property, on inspection or otherwise.

All the holdings in a provisionally declared "Estate" must ordinarily be sold as part of that Estate, but the Commissioners may allow a particular holding or a number of holdings to be excluded from the property being sold and the provisional declaration of the Estate to be amended accordingly before the final declaratory order is passed, if sufficient reason is shown for the exclusion, such as—

(*a.*) That the tenant is altogether unwilling to buy, for the reason that he may prefer to postpone purchase till he has had a second term rent judicially fixed or for other reasons.

(*b.*) That a reasonable offer of sale has been made to a tenant and refused by him.

(*c.*) That the price agreed on, though reasonable in itself, is more than the Commissioners are prepared to advance having regard to the security; as, for example, where the holding consists mainly of buildings belonging to the landlord, which buildings, being liable to destruction by fire or dilapidation, would not be security for 68½ years for the instalments of the advance applied for.

(*d.*) That the holding is a labourer's cottage, school-house, house in a town, or other holding, in respect of which the Commissioners are not prepared to make an advance.

Inspection of holdings in respect of which the prices agreed upon are within zone limits.

In case of a sale of an Estate by landlord to tenant, if all the advances applied for come within the Zone limits, the Estate is visited by a Surveyor, who reports as to the boundaries and areas of the holdings, occupation of tenants, labourers' cottages, ancient monuments, and generally as to matters other than security and equity of price.

Inspection of judicial holdings where prices are outside zone limits.

In cases of judicial holdings outside the Zone limits the Estate is also visited by an Inspector, who reports as to security of the holding for the price agreed upon and as to equity of price to persons interested in the Estate, other than the Vendor, such as incumbrancers, remaindermen, and the like.

Inspection of non-judicial holdings.

In the cases of non-judicial holdings, Inspectors were required, in Instructions issued by the Commissioners in February 1904, to inquire as to the security of each holding for the price agreed upon and as to the equity of the price to all persons interested, including the tenant purchasers.

Subsequently however the interpretation of the law acted upon was that both in the case of non-judicial holdings and judicial holdings coming within the provisions of Section 1 (2), the only questions which arise are the security to the state, and equity of price to parties other than would-be Vendor and Purchaser, and that no question of equity can arise as between the Vendors and Purchasers who have come to a voluntary agreement.

A revised code, based on this view of the law, has been prepared and issued to Inspectors for their guidance in substitution for the instructions previously in force, which latter have been cancelled. The instructions to Inspectors now in force proceed, therefore, upon the principle that no inquiry into the equity of the price agreed upon between the Vendor and the tenant should be made by the Commissioners, and that the inquiry into the equity of

the price agreed upon should only have regard to remainder-men, incumbrancers, and other such persons interested in the Estate.

The question of law thus raised as to the meaning of "equitable" in Section 5 has been referred to the Judicial Commissioner under Section 23 (1) of the Act.

When the reports submitted by the Inspectors and Surveyors have been considered by the Commissioners the several applications for advances are ruled on, and as soon thereafter as *primâ facie* title has been shown and funds are available the advances are made.

Originating Applications.

For the period from 1st November 1903, the date of the commencement of the Act, up to 31st December 1904, Originating Applications to the number of 1635 to have the lands comprised therein declared fit to be regarded as "Separate Estates" for the purposes of the Act were lodged. Of these 1200 were by the end of December 1904 provisionally declared fit to be regarded as "Separate Estates."

The Commissioners refused to declare the lands comprised in ten Originating Applications fit to be regarded as "Separate Estates" for the following reasons:—

In nine of these cases the applications comprised each a single holding only—in four, new tenancies had been created which the Commissioners did not consider *bonâ fide,* in three, the single holdings were residential, and in two, the proposed sale was from father to son.

In one case—the Estate of the Scottish National and Union Assurance Company (formerly Blake Foster)—the property which is situated in the Counties of Clare and Galway was badly congested, the holdings were intermixed and in rundale, there was no apparent means of enlarging or improving them, and the Commissioners were satisfied that the advances could not be repaid. In this case the question of law has been referred to the Judicial Commissioner, whether the Estates Commissioners had any power to refuse to declare the lands comprised in the Application to be regarded a separate Estate for the purposes of the Act, and is awaiting decision.

Four applications were withdrawn, and the remaining 421 were pending on the 31st December 1904; of these 311 had not been checked and examined in the office, and the rest were under consideration by the Commissioners.....

II.

Purchase of Estates by the Land Commission (*Section* 6).

The procedure for initiating proceedings in the case of proposed sales to the Land Commission under Section 6 is similar to that for sales from landlord to tenant direct, save that under Section 6 the owner applies to the Commissioners to make inquiries with a view to the purchase of his Estate by them. After due inquiry and inspection the Commissioners estimate the price of each holding and parcel of land, and make an offer based on these estimated prices. If the owner agrees to accept the offer, the Commissioners proceed to obtain Undertakings for the resale of the Estate, and, when these undertakings are completed, they agree to purchase the Estate at the estimated price. After this, two months' notice of their intention to vest the lands in themselves has to be published in the Gazette before the Commissioners can deal with the land as owners or put new tenants in occupation. The advances, moreover, cannot be made, or the land vested in the new purchasers, until the title to the purchase money is established, in as much as under Section 24 (2) the Commissioners are liable to pay interest to the Vendor at $3\frac{1}{2}$ per cent. on the purchase money, or on so much of it as is for the time being undistributed, until the whole of the purchase money is distributed, while under Section 36 (1) the Commissioners are liable to pay interest to the National Debt Commissioners at the rate of $2\frac{3}{4}$ per cent. on all sums advanced by the National Debt Commissioners; so that, if the purchase money of the Estate was drawn from the National Debt Commissioners before the date of its distribution, the Land Commission would be obliged to meet two sets of interest on the purchase money—viz., $3\frac{1}{2}$ per cent. to the Vendor, and $2\frac{3}{4}$ per cent. to the National Debt Commissioners.

Provisional agreements to purchase have, in many cases, been entered into between landlords and tenants prior to the estates coming before the Commissioners.

Under the instructions to Inspectors of February 1904, these provisional agreements were indicated as one of the means by which the prices which the tenants would be willing to pay could be ascertained, but subsequently they were regarded as conclusive evidence of the tenants' willingness to buy at the prices mentioned therein.

The Commissioners form their own estimate of the prices of holdings and parcels, having regard to what the tenants are

willing to give, and their offer for the Estate is based on such prices.

The assistance and suggestions of the vendors, or their agents, are utilised in connection with the sale and the resale of estates bought under Section 6.....

It has not been found necessary to make any orders under the compulsory powers conferred by Section 19.....

There were no cases in which the Lord Lieutenant with the approval of the Treasury dispensed with the condition as to undertakings to purchase holdings laid down in Section 6 (2).

With a view to subsequent purchase and resale under Section 6, the Commissioners, at the request of the owners, had within the period under review directed preliminary inspections to be made into the circumstances of nineteen estates for the sale of which formal Requests had not been lodged. Eight of these estates have been inspected; and in four of these estates the Commissioners have intimated to the owners that they would be prepared to make offers amounting to £37,772 on lodgment by them of the necessary documents..... Table II. A.

III.

Purchase and Resale of Demesnes and other Lands in Owner's Occupation from and to Owners (Section 3).

Where the amount advanced for the repurchase of demesnes, including the mansions thereon, was not sufficiently secured by the land alone, the Commissioners have called on the vendors to insure the mansions and keep them insured for such a period as may appear to them necessary under the circumstances. At the date of this Report five insurances, amounting to £14,625, have been effected on mansions and other buildings repurchased by vendor.....

In no case did the Commissioners refuse to allow the vendor to repurchase demesne land which he desired to repurchase, but in some instances they have required the owners to sell to them untenanted land (other than demesne land) in their occupation when required for the enlargement of uneconomic holdings, and the owners have invariably complied with their requests in this respect before the sale of the Estate proceeded to completion.

In this connection the Commissioners have borne two principles in mind. First, that a resident Owner should be permitted to repurchase so much of the untenanted land in his occupation as he may

require for the purposes of a home farm and amenities of a country gentleman's life. Second, that the Commissioners are not justified in advancing public money for the sale of an Estate, comprising uneconomic holdings, while the vendor possesses untenanted land not required for the purposes above stated, but essential and suitable for the enlargement of holdings where they consider such enlargement necessary.

IV.

Congested Estates (*Section* 6 (4) (5)).

The Commissioners, with the consent of the owners, have certified three estates to the Lord Lieutenant to be "Congested" Estates, but at a subsequent stage they have found two practical difficulties in dealing with Congested Estates.

The Act requires the consent of the owner before any estate can be declared to be congested. The Estate must also be bought by the Commissioners if they are to have any control in the improvement of it.

It cannot be reasonably expected that owners will consent to have their properties, though falling within the definition of Section 6 (5), declared to be "Congested," unless they are secured against the liability to have them sold at lower prices than they themselves could obtain by selling to their tenants direct.

In point of fact the only terms on which vendors will ordinarily consent to have their estates declared "Congested," or can be expected to do so, is by the Commissioners giving them a guarantee beforehand that they will offer for the estate the maximum price for each holding which the vendor could himself obtain by agreement with the tenant.

But supposing that this difficulty could be overcome, a more serious one still remains, namely, that when the Commissioners have bought "Congested Estates," they have no funds other than the Reserve Fund at their disposal for expenditure on the improvement of them. It would obviously be out of the question to make advances for improvement of Congested Estates out of the Reserve Fund, because advances made out of it cannot be recovered unless the land is sold at an enhanced price over and above the price paid to the vendor, while in the case of Congested Estates the lands would ordinarily have to be resold at the same or a less price than that paid to the vendor. It would also be impracticable to improve Congested

Estates by making free Grants on a large scale out of the Reserve Fund.

The Commissioners consider that the ten per cent. loss mentioned in Section 44, Sub-section 2, is loss that can only be incurred by re-selling to the tenants at ten per cent. less than they have paid to the vendors in the aggregate, and that the loss cannot be incurred by expenditure on works of improvement of Congested Estates.

As it would manifestly be inexpedient for the Commissioners to buy a "Congested" Estate, and to sell to the tenants at ten per cent. less than they paid for it, and then leave it in the congested and uneconomic condition in which they found it, the result has been that the Commissioners have not in practice dealt with any estates as congested from the date of the commencement of the Act up to the present time.

V.

Purchases and Resales of Estates in the Court of the Land Judge (Section 7).

The practice in these cases is somewhat similar to that in Section 6 cases.

The Commissioners find that in a number of cases under this Section preliminary negotiations between the Receivers and tenants have taken place before the estates came to them for purchase, and preliminary agreements or undertakings, purporting to be agreements or undertakings to buy from the Land Commission, have been signed. These preliminary agreements are referred to by them as good *primâ facie* evidence of the tenants' willingness, at the date of the execution of them, to buy at the prices therein mentioned, but the Commissioners have formed their own estimate of the price of each holding and parcel on the report of their Inspector, which prices in some cases differed from those mentioned in the agreements, and have based their offers on such estimate.....

VI.

Untenanted Lands under Sections 6, 7, and 8.

There has been some delay in completing the purchase of untenanted land offered to the Commissioners for sale. This delay is, to a large extent, inevitable owing to the legal and practical difficulties which are indicated below.

It must be remembered that untenanted land is occupied either by the Owner himself or by graziers on the eleven months or other system, who are not tenants within the meaning of the Act, and that before any formal agreement can be entered into for the purchase of such land, arrangements must be made for the removal of the Owner's Stock or the surrender of the lands by the grazier. The lands have to be inspected and valued, and an agreement come to with the Owner as to price; it then has to be divided into proposed parcels, arrangements have to be made for such buildings, fences, and roads as may be required, and finally purchasers have to be selected who come within the provisions of the Act. No formal agreement can be entered into, or possession taken by, the Land Commission, until they are in a position to put purchasers into occupation who will forthwith become liable to interest on their purchase money, or until arrangements have been made by the Commissioners for the user of the land pending resale.

They have in some cases endeavoured to overcome these difficulties by making preliminary and informal offers before the various steps had been taken which are required under the law before the land can be vested in the Commissioners, such as proving of title, &c., and, with a view to meeting the convenience of the Owners, have at their request undertaken to parcel out the lands amongst the classes of persons mentioned in Section 2 prior to the lands being vested in themselves. The adoption of this course has in some cases worked smoothly and satisfactorily, but in others, where the area of untenanted land available was limited and the number of applicants very large, it has caused dissatisfaction amongst the disappointed applicants and produced misapprehension among others who were ignorant of the true facts.

To guard against the recurrence of such misunderstandings, the Commissioners propose in future to refrain from putting purchasers of parcels of untenanted land into occupation until it has been legally vested in the Commission.

On the general subject of the purchase of untenanted land the Commissioners would point out that when the land does not form part of a tenanted estate under sale, it can only be acquired by them under Section 8 of the Act. That Section limits the action of the Commissioners to the purchase of such untenanted land as they consider necessary to facilitate the sale or redistribution of estates purchased or proposed to be purchased by them under Sections 6 or 7. The number of estates so purchased is small, and consequently the power of the Commissioners to purchase untenanted land under Section 8 of the Act is limited.

VII.

Summary of Applications and Advances.

In cases of direct sales, 31,140 applications for advances amounting to £12,849,670 have been received from the commencement of the Act. Table I.

In respect of these, 6315 advances, amounting to £3,326,650, and cash payments amounting to £32,889, have been made. Table VII.

Twenty-four agreements have been entered into with vendors for sale of estates and untenanted land under Section 6, and the Land Judge has accepted the offers of the Land Commission to purchase nine estates under Section 7. Tables II. and III.

Advances amounting to £723,905 have been applied for by 2488 tenants and other purchasers on such estates.

Six thousand eight hundred and twenty-six advances, amounting to £3,535,023, have been made in respect of direct sales and resales under Sections 6 and 7, and cash payments amounting to £33,599 have been made by purchasers to complete their purchase money. Table XII.

The value of all lands vested in the Land Commission, in respect of which Undertakings to repurchase have not been received by the Land Commission, is estimated to be £2047; particulars of such lands are given in Table IX.

The above applications for advances amount to £13,573,575. In addition to this sum there were on the 31st December 1904 estates offered for sale to the Commissioners of an estimated value of £1,865,681, making a total to the end of the year of £15,439,256; and, as will be seen from Table XVI., the further applications and offers for sale received since the 31st December 1904 to 18th March 1905 amount to £3,676,574, making a total estimated purchase money of estates sold or offered for sale to the Commissioners up to the 18th March 1905 of £19,115,830. Table V.

VIII.

Improvement of Estates and Untenanted Land (*Sections* 12 *and* 43).

.....

The Commissioners have not been able to deal with the matter of improvements except to a limited extent. In the case of a large estate which the owner proposed to sell to them in the County Kerry,

they had the property inspected, and found it suitable for purposes of improvement, but having regard to their difficulties under the Act they considered it desirable to invite the good offices of the Congested Districts Board, and themselves refrain from purchasing.

The Commissioners have been advised that in cases of estates sold by landlord to tenant direct, they cannot make advances for improvements repayable by annuities under the Purchase Acts. Such advances must be made out of the Reserve Fund by way of free gift, or under special contract for repayment. It is manifest that if free gifts out of the Reserve Fund were given to any considerable extent, the Fund, which only amounts to £250,000, would soon become exhausted. The question of law has been referred to the Judicial Commissioner, whether in the case of the sale of estates by the landlord to the tenants direct, advances can be made for improvements and recovered by land purchase annuities under Section 45 of the Act.

In the case of sales of estates to the Commissioners themselves, the Commissioners can make advances for improvements, or can themselves spend money on the improvement of the estate, keeping it in their own hands, and, when they have improved it, they can sell at enhanced prices to the tenants and recover such sums as represent the increase in prices consequent on the improvement; but, if they are to do this on a large scale, they would require an establishment for the management and improvement of estates. The Act contemplated they should have property amounting to not more than £5,000,000 in their hands, but in point of fact they have kept no estates on their hands for the purpose of improving them, partly because they had no sufficient establishment, and partly because in the case of Congested Estates, as already explained, they had no funds other than the Reserve Fund to lose on the improvement of them.....

X.

Negotiation Fees (*Section* 23, *Sub-sections* 11 *and* 12).

The Commissioners have sanctioned negotiation fees in thirty-three estates in which an agent has been employed by the vendor to negotiate the sale of such estates to persons other than the Land Commission. The fees in such cases are, with the consent of the vendor, paid to the agent out of the purchase money as part of the costs connected with the sale, pursuant to Section 23 (12) of the Act, and during the period under review varied from 1 per cent. to 3 per cent. according to the arrangement made between the vendor and his negotiator.

The total fees sanctioned to 31st December 1904 amounted to £12,120 2s. 0d. at the average percentage of 1·9, or nearly 2 per cent. on the purchase money.

No fees have yet been paid to negotiators for the negotiation of sales of estates to the Land Commission themselves, and no scale of fees has up to the present been prescribed by the Treasury pursuant to Section 23 (11) of the Act.....

[Extracts from Table VII.

IRISH LAND ACT, 1903.

Extracts from Table VII.—Return of *Advances made*

PROVINCE AND COUNTY.	JUDICIAL (a) RENTS FIXED OR AGREED TO					
	WITHIN ZONE.			NOT WITHIN		
				Where Percentage of Reduction exceeds Maximum Zone limit of 30 per Cent.		
	No. of Holdings.	Rental.	No. of Years' Purchase of Rent.	No. of Holdings.	Rental.	No. of Years' Purchase of Rent.
		£ s. d.			£ s. d.	
ULSTER.						
Antrim	52	820 11 10	25·8	4	126 4 7	20·0
Armagh	537	5543 17 9	25·9	—	—	—
Cavan	5	32 11 6	24·6	2	15 3 6	17·7
Donegal	12	249 15 6	24·7	—	—	—
,, C.D.	2	6 17 6	21·6	1	11 2 1	21·5
Down	170	3021 19 6	25·7	3	33 13 6	20·8
Fermanagh	50	585 13 1	24·8	—	—	—
Londonderry	116	1968 19 8	26·1	5	125 18 3	20·4
Monaghan	19	257 10 6	24·8	5	48 2 0	21·1
Tyrone	183	1806 12 5	25·7	2	27 2 0	20·0
TOTAL OF ULSTER	1146	14,294 9 3	25·7	22	387 5 11	20·3
LEINSTER.						
Carlow	29	643 4 0	23·6	—	—	—
Dublin	13	902 6 8	23·8	3	52 3 0	21·5
Kildare	193	11,687 7 10	24·3	6	28 14 4	21·2
Kilkenny	32	1226 19 2	24·2	29	547 15 0	19·2
King's	24	462 18 2	23·3	19	208 15 6	20·3
Longford	32	714 17 0	24·8	2	6 19 0	19·7
Louth	110	922 5 9	25·9	1	5 0 0	20·2
Meath	28	1632 12 3	25·2	3	2 11 8	19·8
Queen's	53	883 3 6	23·8	—	—	—
Westmeath	31	1524 12 4	24·4	4	58 2 0	21·2
Wexford	74	1573 10 8	24·3	19	155 18 2	21·2
Wicklow	42	1774 14 3	25·8	1	17 10 0	20·2
TOTAL OF LEINSTER	661	23,948 11 7	24·5	87	1083 8 8	20·0
CONNAUGHT.						
Galway	17	214 18 7	23·4	—	—	—
,, C.D.	—	—	—	—	—	—
Leitrim	5	44 8 0	21·8	—	—	—
,, C.D.	7	33 10 3	25·4	—	—	—
Mayo	17	203 13 0	24·2	—	—	—
,, C.D.	14	67 12 6	21·6	15	60 8 9	21·5
Roscommon	22	433 6 0	24·7	14	122 2 4	20·2
,, C.D.	60	260 8 0	23·2	2	8 6 9	19·2
Sligo	2	155 17 6	24·6	—	—	—
,, C.D.	6	17 4 8	26·4	—	—	—
TOTAL OF CONNAUGHT	150	1430 18 6	23·9	31	190 17 10	21·0
MUNSTER.						
Clare	6	156 2 0	24·4	2	27 5 0	19·8
Cork	61	1701 12 7	23·7	28	726 13 6	19·9
,, C.D.	—	—	—	—	—	—
Kerry	2	65 10 0	26·2	1	21 6 0	20·7
,, C.D.	—	—	—	—	—	—
Limerick	19	1017 9 10	23·6	6	194 11 6	19·2
Tipperary, North	36	575 4 6	24·1	—	—	—
,, South	14	983 9 4	24·5	3	56 18 10	21·3
Waterford	11	434 14 7	23·3	12	703 1 7	20·1
TOTAL OF MUNSTER	149	4934 2 10	23·9	52	1729 16 5	20·0
ULSTER	1146	14,294 9 3	25·7	22	387 5 11	20·3
LEINSTER	661	23,948 11 7	24·5	87	1083 8 8	20·0
CONNAUGHT	150	1430 18 6	23·9	31	190 17 10	21·0
MUNSTER	149	4934 2 10	23·9	52	1729 16 5	20·0
GRAND TOTAL	2106	44,608 2 2	24·8	192	3391 8 10	20·1

DIRECT SALES.

during the Period ended 31st December 1904.

RENT CASES.							
SINCE THE 14TH AUGUST 1896.			(b) RENTS FIXED OR AGREED TO BEFORE THE 14TH AUGUST 1896.				
ZONE.			WITHIN ZONE.				
Where Percentage of Reduction is less than Minimum Zone limit of 10 per cent.							PROVINCE AND COUNTY.
No. of Holdings.	Rental.	No. of Years' Purchase of Rent.	No. of Holdings.	Rental.	No. of Years' Purchase of Rent.		
	£ s. d.			£ s. d.			ULSTER.
—	—	—	41	667 19 11	22·3		Antrim.
2	11 10 0	27·7	60	665 11 6	20·9		Armagh.
—	—	—	8	49 2 0	24·2		Cavan.
—	—	—	3	58 15 0	21·2		Donegal.
—	—	—	10	30 11 0	21·5		,, C.D.
—	—	—	73	1,634 4 6	22·3		Down.
—	—	—	21	446 16 0	21·2		Fermanagh.
1	16 14 0	30·7	6	232 5 8	22·4		Londonderry.
—	—	—	8	48 14 0	20·2		Monaghan.
—	—	—	6	94 2 6	21·4		Tyrone.
3	28 4 0	29·5	236	3,928 2 1	21·9		TOTAL OF ULSTER.
							LEINSTER.
—	—	—	16	362 9 0	23·5		Carlow.
—	—	—	40	1,196 5 6	23·2		Dublin.
—	—	—	316	18,491 14 10	23·1		Kildare.
—	—	—	142	3,553 12 2	22·8		Kilkenny.
—	—	—	40	797 2 9	21·1		King's.
3	60 10 0	27·8	28	779 10 0	21·9		Longford.
—	—	—	9	99 2 0	22·8		Louth.
—	—	—	56	3,602 13 8	23·0		Meath.
—	—	—	49	1,378 19 5	22·4		Queen's.
—	—	—	33	938 19 11	22·3		Westmeath.
—	—	—	87	2,045 17 10	21·4		Wexford.
—	—	—	79	3,293 2 9	23·3		Wicklow.
3	60 10 0	27·8	895	36,539 9 10	22·9		TOTAL OF LEINSTER.
							CONNAUGHT.
—	—	—	11	191 2 6	22·0		Galway.
—	—	—	—	—	—		,, C.D.
—	—	—	1	2 10 0	20·8		Leitrim.
—	—	—	4	26 5 0	22·2		,, C.D.
—	—	—	—	—	—		Mayo.
—	—	—	6	22 17 0	19·1		,, C.D.
—	—	—	327	3,678 19 7	22·1		Roscommon.
—	—	—	341	1,537 16 6	20·4		,, C.D.
—	—	—	37	279 6 6	22·2		Sligo.
—	—	—	32	126 18 11	24·0		,, C.D.
—	—	—	759	5,865 16 0	21·7		TOTAL OF CONNAUGHT.
							MUNSTER.
—	—	—	30	619 8 0	19·9		Clare.
—	—	—	184	6,830 16 10	21·3		Cork.
—	—	—	—	—	—		,, C.D.
—	—	—	20	534 11 0	21·2		Kerry.
—	—	—	—	—	—		,, C.D.
—	—	—	31	1,601 2 6	20·3		Limerick.
—	—	—	43	736 8 2	20·8		Tipperary, N.
—	—	—	31	1,484 18 9	22·2		,, S.
—	—	—	33	1,150 4 10	21·0		Waterford.
—	—	—	372	12,957 10 1	21·1		TOTAL OF MUNSTER.
3	28 4 0	29·5	236	3,928 2 1	21·9		ULSTER.
3	60 10 0	27·8	895	36,539 9 10	22·9		LEINSTER.
—	—	—	759	5,865 16 0	21·7		CONNAUGHT.
—	—	—	372	12,957 10 1	21·1		MUNSTER.
6	88 14 0	28·3	2,262	59,290 18 0	22·3		GRAND TOTAL.

IRISH LAND COMMISSION.—ESTATES COMMISSIONERS.

Irish Land Act, 1903. Direct Sales.

Extracts from Table VII. (*continued*).—Return of *Advances made* during the Period ended 31st December 1904.

Province and County.	Judicial Rent Cases. (b) Rents fixed or agreed to before the 14th August 1896. Not within Zone. Where Percentage of Reduction exceeds Maximum Zone limit of 40 per cent.			Where Percentage of Reduction is less than Minimum Zone limit of 20 per cent.			Non-Judicial Rent Cases.		
	No. of Holdings.	Rental.	No. of Years' Purchase of Rent.	No. of Holdings.	Rental.	No. of Years' Purchase of Rent.	No. of Holdings.	Rental.	No. of Years' Purchase of Rent.
		£ s. d.			£ s. d.			£ s. d.	
ULSTER.									
Antrim	—	—	—	—	—	—	11	181 3 6	24·0
Armagh	—	—	—	—	—	—	104	815 7 2	25·1
Cavan	6	43 4 0	17·1	—	—	—	3	22 12 0	20·8
Donegal	—	—	—	—	—	—	1	44 5 0	23·5
,, C.D.	—	—	—	—	—	—	15	74 14 6	21·9
Down	1	7 0 0	17·5	2	24 0 0	24·9	34	606 0 3	25·1
Fermanagh	—	—	—	—	—	—	15	201 2 8	24·4
Londonderry	4	18 7 6	18·1	—	—	—	38	372 11 5	21·4
Monaghan	2	16 17 0	17·2	—	—	—	4	49 15 0	12·6
Tyrone	—	—	—	—	—	—	20	365 7 0	23·0
Total of Ulster	13	85 8 6	17·4	2	24 0 0	24·9	248	2,732 18 6	23·8
LEINSTER.									
Carlow	—	—	—	—	—	—	10	221 3 0	18·7
Dublin	—	—	—	1	109 12 0	25·0	50	1,368 12 3	23·6
Kildare	—	—	—	1	87 10 0	24·8	171	4,181 19 1	22·4
Kilkenny	6	141 19 6	16·9	3	176 17 11	24·7	190	2,784 3 8	21·3
King's	—	—	—	—	—	—	81	760 18 8	20·3
Longford	1	10 10 0	17·6	—	—	—	29	521 11 8	21·5
Louth	—	—	—	—	—	—	15	260 10 3	19·7
Meath	1	25 0 0	18·0	—	—	—	23	964 6 3	21·5
Queen's	3	86 18 8	18·0	—	—	—	39	562 8 3	24·3
Westmeath	—	—	—	—	—	—	16	443 7 6	21·9
Wexford	3	44 10 0	18·0	1	4 10 0	24·8	156	2,108 9 1	19·4
Wicklow	—	—	—	1	26 12 0	24·7	32	1,059 11 3	23·3
Total of Leinster	14	308 17 6	17·5	7	405 1 11	24·9	812	15,237 0 5	21·7
CONNAUGHT.									
Galway	—	—	—	1	31 8 0	26·2	45	631 12 0	23·9
,, C.D.	—	—	—	—	—	—	—	—	—
Leitrim	—	—	—	—	—	—	2	33 5 0	21·0
,, C.D.	—	—	—	2	12 4 0	25·1	—	—	—
Mayo	—	—	—	—	—	—	3	48 11 6	19·7
,, C.D.	—	—	—	—	—	—	2	5 7 6	21·0
Roscommon	2	23 19 6	16·5	6	246 17 6	25·1	83	829 14 5	22·6
,, C.D.	2	10 19 6	16·4	1	0 8 0	25·0	45	178 3 7	18·9
Sligo	—	—	—	—	—	—	9	387 18 6	23·0
,, C.D.	—	—	—	—	—	—	—	—	—
Total of Connaught	4	34 19 0	16·5	10	290 17 6	25·2	189	2,114 12 6	22·7
MUNSTER.									
Clare	6	69 3 0	16·4	—	—	—	42	471 10 8	20·7
Cork	5	88 3 4	17·3	1	27 6 0	25·6	134	3,120 3 6	20·6
,, C.D.	—	—	—	—	—	—	—	—	—
Kerry	—	—	—	—	—	—	10	220 9 0	23·6
,, C.D.	—	—	—	—	—	—	1	160 0 0	24·0
Limerick	2	63 3 6	16·6	—	—	—	30	1,232 15 5	21·4
Tipperary, North	—	—	—	—	—	—	57	1,403 2 10	20·4
,, South	1	14 4 0	18·4	—	—	—	47	1,069 8 7	20·8
Waterford	3	247 4 7	14·4	—	—	—	39	1,265 12 0	20·3
Total of Munster	17	481 18 5	15·6	1	27 6 0	25·6	360	8,943 2 0	20·8
Ulster	13	85 8 6	17·4	2	24 0 0	24·9	248	2,732 18 6	23·8
Leinster	14	308 17 6	17·5	7	405 1 11	24·9	812	15,237 0 5	21·7
Connaught	4	34 19 0	16·5	10	290 17 6	25·2	189	2,114 12 6	22·7
Munster	17	481 18 5	15·6	1	27 6 0	25·6	360	8,943 2 0	20·8
Grand Total	48	911 3 5	16·5	20	747 5 5	25·0	1,609	29,027 13 5	21·7

IRISH LAND COMMISSION.—ESTATES COMMISSIONERS.

IRISH LAND ACT, 1903. Section 6.

Extracts from Table X.—Return of *Advances made* on *Resales of Estates* purchased by Land Commission during the Period ended 31st December 1904.

PROVINCE AND COUNTY.	JUDICIAL RENT CASES. (a) RENTS FIXED OR AGREED TO SINCE THE 14th AUGUST 1896. WITHIN ZONE. No. of Holdings.	Rental.	No. of Years' Purchase of Rent.	NOT WITHIN ZONE. Where Percentage of Reduction exceeds Maximum Zone limit of 30 per cent. No. of Holdings.	Rental.	No. of Years' Purchase of Rent.	Where Percentage of Reduction is less than Minimum Zone limit of 10 per cent. No. of Holdings.	Rental.	No. of Years' Purchase of Rent.	(b) RENTS FIXED OR AGREED TO BEFORE THE 14th AUGUST 1896. WITHIN ZONE. No. of Holdings.	Rental.	No. of Years' Purchase of Rent.	PROVINCE AND COUNTY.
		£ s. d.			£ s. d.			£ s. d.			£ s. d.		
Londonderry	—	—	—	—	—	—	—	—	—	—	—	—	Londonderry.
TOTAL FOR ULSTER	—	—	—	—	—	—	—	—	—	—	—	—	TOTAL FOR ULSTER.
Kildare	—	—	—	—	—	—	—	—	—	1	274 10 0	22·9	Kildare.
Wexford	1	28 9 0	24·6	—	—	—	—	—	—	4	244 12 0	21·2	Wexford.
TOTAL FOR LEINSTER	1	28 9 0	24·6	—	—	—	—	—	—	5	519 2 0	22·2	TOTAL FOR LEINSTER.
Galway	1	20 10 0	23·1	—	—	—	—	—	—	—	—	—	Galway.
Leitrim C. D.	14	95 0 5	25·7	—	—	—	2	8 10 0	28·1	22	164 8 3	22·1	Leitrim C.D.
TOTAL FOR CONNAUGHT	15	115 10 5	25·3	—	—	—	2	8 10 0	28·1	22	164 8 3	22·1	TOTAL FOR CONNAUGHT.
Limerick	1	8 0 0	22·2	1	50 0 0	19·0	—	—	—	6	45 7 8	19·8	Limerick.
Tipperary, S.	12	125 5 0	23·8	—	—	—	—	—	—	—	—	—	Tipperary, S.
TOTAL FOR MUNSTER	13	133 5 0	23·7	1	50 0 0	19·0	—	—	—	6	45 7 8	19·8	TOTAL FOR MUNSTER.
ULSTER	—	—	—	—	—	—	—	—	—	—	—	—	ULSTER.
LEINSTER	1	28 9 0	24·6	—	—	—	—	—	—	5	519 2 0	22·2	LEINSTER.
CONNAUGHT	15	115 10 5	25·3	—	—	—	2	8 10 0	28·1	22	164 8 3	22·1	CONNAUGHT.
MUNSTER	13	133 5 0	23·7	1	50 0 0	19·0	—	—	—	6	45 7 8	19·8	MUNSTER.
GRAND TOTAL	29	277 4 5	24·5	1	50 0 0	19·0	2	8 10 0	28·1	33	728 17 11	22·0	GRAND TOTAL.

IRISH LAND COMMISSION.—ESTATES COMMISSIONERS.

Irish Land Act, 1903. Section 7.

Extracts from Table XI.—Return of *Advances made* on *Resales of Estates* purchased from Land Judge by Land Commission during the Period ended 31st December 1904.

Province and County.	Judicial Rent Cases. (a) Rents fixed or agreed to since the 14th August 1896. Within Zone. No. of Holdings.	Rental.	No. of Years' Purchase of Rent.	Not within Zone. Where Percentage of Reduction exceeds Maximum Zone limit of 30 per cent. No. of Holdings.	Rental.	No. of Years' Purchase of Rent.	Where Percentage of Reduction is less than Minimum Zone limit of 10 per cent. No. of Holdings.	Rental.	No. of Years' Purchase of Rent.	(b) Rents fixed or agreed to before the 14th August 1896. Within Zone. No. of Holdings.	Rental.	No. of Years' Purchase of Rent.	Province and County.
		£ s. d.			£ s. d.			£ s. d.			£ s. d.		
Monaghan	97	955 8 6	24·1	1	11 2 6	20·7	—	—	—	—	—	—	Monaghan.
Tyrone	—	—	—	—	—	—	—	—	—	—	—	—	Tyrone.
Total for Ulster	97	955 8 6	24·1	1	11 2 6	20·7	—	—	—	—	—	—	Total for Ulster.
Kildare	12	762 12 10	24·5	3	49 0 0	20·7	—	—	—	30	1,546 6 4	20·8	Kildare.
Queen's	—	—	—	2	41 18 9	19·9	—	—	—	—	—	—	Queen's.
Wexford	—	—	—	2	14 15 0	17·8	—	—	—	—	—	—	Wexford.
Total for Leinster	12	762 12 10	24·5	7	105 13 9	20·0	—	—	—	30	1,546 6 4	20·8	Total for Leinster.
Mayo	—	—	—	—	—	—	—	—	—	5	18 14 8	19·5	Mayo.
Total for Connaught	—	—	—	—	—	—	—	—	—	5	18 14 8	19·5	Total for Connaught.
Cork	—	—	—	2	35 0 0	18·4	—	—	—	—	—	—	Cork.
Tipperary, N.	—	—	—	—	—	—	—	—	—	1	11 10 0	22·0	Tipperary, N.
Total for Munster	—	—	—	2	35 0 0	18·4	—	—	—	1	11 10 0	22·0	Total for Munster.
Ulster	97	955 8 6	24·1	1	11 2 6	20·7	—	—	—	—	—	—	Ulster.
Leinster	12	762 12 10	24·5	7	105 13 9	20·0	—	—	—	30	1,546 6 4	20·8	Leinster.
Connaught	—	—	—	—	—	—	—	—	—	5	18 14 8	19·5	Connaught.
Munster	—	—	—	2	35 0 0	18·4	—	—	—	1	11 10 0	22·0	Munster.
Grand Total	109	1,718 1 4	24·3	10	151 16 3	19·8	—	—	—	36	1,576 11 0	20·9	Grand Total.

IRISH LAND COMMISSION.—ESTATES COMMISSIONERS.

Irish Land Act, 1903. Section 6.

Extracts from Table X. (*continued*).—Return of *Advances made* on *Resales of Estates* purchased by Land Commission during the Period ended 31st December 1904.

PROVINCE AND COUNTY.	JUDICIAL RENT CASES. (b) Rents fixed or agreed to before the 14th August 1896. Not within Zone. Where Percentage of Reduction exceeds Maximum Zone limit of 40 per cent.			Where Percentage of Reduction is less than Minimum Zone limit of 20 per cent.			NON-JUDICIAL RENT CASES.		
	No. of Holdings.	Rental.	No. of Years' Purchase of Rent.	No. of Holdings.	Rental.	No. of Years' Purchase of Rent.	No. of Holdings.	Rental.	No. of Years' Purchase of Rent.
		£ s. d.			£ s. d.			£ s. d.	
Londonderry	—	—	—	—	—	—	1	4 10 0	22·2
Total for Ulster	—	—	—	—	—	—	1	4 10 0	22·2
Kildare	—	—	—	—	—	—	10	208 3 4	22·9
Wexford	—	—	—	2	87 18 6	26·1	101	1,718 18 0	21·8
Total for Leinster	—	—	—	2	87 18 6	26·1	111	1,927 1 4	22·0
Galway	—	—	—	—	—	—	1	1 17 6	14·9
Leitrim C.D.	—	—	—	—	—	—	7	27 2 1	22·0
Total for Connaught	—	—	—	—	—	—	8	28 19 7	21·5
Limerick	—	—	—	—	—	—	11	113 8 3	19·0
Tipperary, S.	—	—	—	—	—	—	25	511 3 0	21·6
Total for Munster	—	—	—	—	—	—	36	624 11 3	21·2
Ulster	—	—	—	—	—	—	1	4 10 0	22·2
Leinster	—	—	—	2	87 18 6	26·1	111	1,927 1 4	22·0
Connaught	—	—	—	—	—	—	8	28 19 7	21·5
Munster	—	—	—	—	—	—	36	624 11 3	21·2
GRAND TOTAL	—	—	—	2	87 18 6	26·1	156	2,585 2 2	21·8

IRISH LAND COMMISSION.—ESTATES COMMISSIONERS.

Irish Land Act, 1903. Section 7.

Extracts from Table XI. (*continued*).—Return of *Advances made* on *Resales of Estates* purchased from Land Judge by Land Commission during the Period ended 31st December 1904.

Province and County.	Judicial Rent Cases. (b) Rents fixed or agreed to before the 14th August 1896. Not within Zone. Where Percentage of Reduction exceeds Maximum Zone limit of 40 per cent.			Where Percentage of Reduction is less than Minimum Zone limit of 20 per cent.			Non-Judicial Rent Cases.		
	No. of Holdings.	Rental.	No. of Year's Purchase of Rent.	No. of Holdings.	Rental.	No. of Years' Purchase of Rent.	No. of Holdings.	Rental.	No. of Years' Purchase of Rent.
		£ s. d.			£ s. d.			£ s. d.	
Monaghan	—	—	—	—	—	—	12	211 1 10	19·8
Tyrone	—	—	—	—	—	—	—	—	—
Total for Ulster	—	—	—	—	—	—	12	211 1 10	19·8
Kildare	2	61 19 4	18·0	—	—	—	23	266 9 6	20·0
Queen's	—	—	—	—	—	—	1	145 0 0	20·6
Wexford	5	57 5 0	17·9	—	—	—	5	122 0 0	17·9
Total for Leinster	7	119 4 4	17·9	—	—	—	29	533 9 6	19·8
Mayo	7	28 2 0	18·0	—	—	—	4	16 9 0	18·4
Total for Connaught	7	28 2 0	18·0	—	—	—	4	16 9 0	18·4
Cork	3	66 0 0	14·5	—	—	—	5	21 0 0	17·0
Tipperary, N.	—	—	—	—	—	—	9	101 0 0	19·1
Total for Munster	3	66 0 0	14·5	—	—	—	14	122 0 0	18·7
Ulster	—	—	—	—	—	—	12	211 1 10	19·8
Leinster	7	119 4 4	17·9	—	—	—	29	533 9 6	19·8
Connaught	7	28 2 0	18·0	—	—	—	4	16 9 0	18·4
Munster	3	66 0 0	14·5	—	—	—	14	122 0 0	18·7
Grand Total	17	213 6 4	16·9	—	—	—	59	883 0 4	19·6

LAND COMMISSION AND LAND JUDGE REGULATIONS OF 18TH SEPTEMBER 1896.

REGULATIONS, DATED SEPTEMBER 18, 1896, MADE IN PURSUANCE OF SECTION 23, SUB-SECTION 4, OF THE LAND LAW (IRELAND) ACT, 1896.

1896. No. 900.

Land Law (Ireland) Act, 1896.

Land Commission and Land Judge.

It is this day ordered, pursuant to the provisions of the 23rd Section of the Land Law (Ireland) Act, 1896, that the following Regulations shall, from and after this date and until further order, take effect and be in force in the Land Commission and Land Judge's Court respectively.

ORDER I.

Construction of Terms.

In these Regulations "High Court" shall mean the High Court of Justice in Ireland; "Land Commission" shall mean the Irish Land Commission; "the Land Judge" shall mean the Land Judge of the Chancery Division of the High Court; "a Land Judge" shall include the Judicial Commissioner of the Land Commission when acting as a Land Judge; "Judicial Commissioner" shall mean the Judicial Commissioner of the Irish Land Commission, or a Land Judge of the Chancery Division of the High Court acting as an additional Judicial Commissioner; "examiner" shall include first assistant examiner and assistant examiner; "the examiner" shall mean the examiner to whom the proceedings in question are for the time being assigned; and "Land Commission Rules" shall mean General Rules of the Land Commission under the Land Purchase Acts.

Order II.

Officers.

Examiners to Land Judge and Land Commission to have authority in both Courts.

1. For the purpose of discharging any duties that may be imposed on them in pursuance of Sub-section 3 of Section 23 of the Land Law (Ireland) Act, 1896, the examiners attached to the Chamber of the Land Judge shall have all the powers and authority vested in, or to be exercised by the examiners of the Land Commission, and the examiners of the Land Commission shall have all the powers and authority vested in, or to be exercised by the examiners attached to the Chamber of the Land Judge.

Power to administer oaths.

2. The examiners shall have power to administer oaths and affirmations in all matters pending before a Land Judge.

Power to send for records.

3. The examiners attached to the Chamber of the Land Judge and of the Land Commission shall have authority to send for any record, or document lodged in either Court which they may require for the discharge of their duties, and which is usually permitted to be removed from its place of custody for the use of an officer of the Court. The examiners shall see that records, and documents so sent for are not inspected or used for any unlawful or improper purpose while in their custody.

Accountant-General shall permit money to be lodged by Order of Land Commission.

4. The Accountant-General of the Supreme Court of Judicature in Ireland shall permit Guaranteed Land Stock or money to be lodged in the High Court by the Irish Land Commission, or by other persons, in pursuance of the order of a Land Commissioner, or the direction of an examiner of the Land Commission, and shall, when required, issue the necessary authority to enable such lodgment to be made.

Order III.

Payment into the High Court of the proceeds of Sales under the Land Purchase Acts.

Cases in which purchase money is to be paid into the High Court.

1. The purchase money of land sold under the Land Purchase Acts, less by such portion thereof (if any) as may be retained as a guarantee deposit, shall, unless the land has been sold by the Land Commission under a power of sale statutory or otherwise, be paid into the High Court to be distributed by a Land Judge among the parties entitled thereto :—

(*a*) In all cases in which such land is the subject matter of proceedings which originated before the Land Judge ;

(*b*) In all cases in which such land is the subject matter of proceedings which originated in the Land Commission where the lodgment of a final schedule of incumbrances is necessary for the distribution of the purchase money; *

(*c*) In any other case in which a Judicial Commissioner shall direct it to be so paid.

Examiner to certify if final schedule of incumbrances may be dispensed with.

2. Subject to any direction that may be given by a Judicial Commissioner, the examiner shall certify if the lodgment of a final schedule of incumbrances may be dispensed with.*

Purchase money of land sold by Land Commission to be distributed by them.

3. The purchase money of land sold by the Land Commission under a power of sale statutory or otherwise, shall be retained and distributed by the Land Commission, unless a Judicial Commissioner otherwise directs.

Guaranteed deposit.

4. If in making a payment of purchase money into the High Court the Land Commission retain any portion thereof as a guarantee deposit, such guarantee deposit shall, subject to the rights of the Land Commission in respect thereof, abide the order of a Land Judge.

Appearances.

5. When the purchase money of land which is the subject matter of proceedings which originated in the Land Commission has been paid into the High Court, it shall be the duty of the solicitor for the vendor to produce a certificate of the appearances (if any) that have been entered in the Land Commission to the Registrar of the Land Judges' Court, who shall thereupon cause appearances to be entered in his office for all persons named in such certificate as having entered general appearances, or special appearances requiring notice of proceedings in reference to the distribution of the funds; and the proper officer shall endorse a minute on the certificate to the effect that the appearances have been so entered in the Land Judges' Court. All subsequent appearances in relation to the distribution of the funds and matters connected therewith shall be entered in the proper office in the Land Judges' Court.

Order IV.

Distribution of Proceeds of Sales under the Land Purchase Acts.

Existing rules and directions to apply with modifications.

1. When the purchase money of land sold under the Land Purchase Acts has been paid into the High Court, the subsequent proceedings in relation to the distribution of such purchase money shall be in accordance with the General Rules, Orders, and

* Clause (*b*) of Rule 1 and Rule 2 are cancelled by Rule of 9th January 1901, *post* p. 303.

directions for the time being in force in relation to proceedings for the sale of estates before the Land Judges with the following modifications :—

Entitling of documents.

(*a*) The final schedule of incumbrances, and all statements, notices, orders, affidavits, consents, undertakings, certificates, and other documents for the purpose of such proceedings shall be headed "In the High Court of Justice in Ireland, "Chancery Division, Land Judges—Land Purchase Acts," and shall bear the record number (if any), and be entitled in the matter in which the proceedings originated.

Preparation of final schedule of incumbrances.

(*b*) In preparing and settling the final schedule of incumbrances regard shall be had to the directions in the Appendix hereto.

Final notice to claimants.

(*c*) The final notice to claimants shall be in Form 1 in the Appendix hereto, with such variations and additions as the nature of the case may require. In the absence of any special direction to the contrary it shall not be necessary to serve the final notice on the purchaser or purchasers.

Additional regulations when proceedings originated in Land Commission.

2. If the land sold be the subject matter of proceedings which originated in the Land Commission, the following additional regulations shall apply :—

Lodgment of final schedule of incumbrances for settlement.

(*a*) The final schedule of incumbrances shall not be received for settlement until the certificate of the appearances entered in the Land Commission, with the minute of their entry in the Land Judges' Court endorsed, or a certificate that no appearances have been entered in the Land Commission, has been produced to the examiner.

Not to be lodged in duplicate.

(*b*) The final schedule shall be lodged in the examiners' office in the Land Commission, but it shall not be necessary to lodge it in duplicate, and the original shall be open to public inspection.

Office copies of final schedule of incumbrances.

(*c*) Office copies of final schedules of incumbrances, or of extracts therefrom, may be issued by the keeper of records of the Land Commission when the schedule is in the custody of a Land Commission examiner acting as an examiner of the High Court, but such copies must be attested by an examiner.

Deeds to be lodged in Record Office of Land Commission.

(*d*) All deeds and other documents which would in ordinary proceedings before the Land Judges be lodged with the keeper of deeds, shall be lodged in the Record Office of the Land Commission.

Final schedule of incumbrances lodged in Land Judges' Court, or Land Commission may be adopted.

3. When a final schedule of incumbrances has already been lodged in the Land Judges' Court or the Land Commission, a Land Judge may adopt such schedule for the purpose of the distribution

of the proceeds of the sales under the Land Purchase Acts on the estate, and in such case any further final notice to claimants shall be dispensed with, unless the Judge shall otherwise direct.

Order V.

Apportionment and Redemption of Superior Interests.

The following regulations as to the apportionment, and redemption of superior interests as defined by Section 31 of the Land Law (Ireland) Act, 1896, shall apply when the land sold is the subject matter of proceedings which originated in the Land Judges' Court.

I.—*Apportionment.*

Apportionment of tithe rent-charge payable to Land Commission.

1. Applications for the apportionment of tithe rent-charge payable to the Land Commission, or of fixed annual instalments payable in lieu thereof, shall, unless a Land Judge otherwise directs, be made to the Land Commission in accordance with the Land Commission rules.

Apportionment of land improvement and drainage charges.

2. Applications for the apportionment of land improvement, or drainage charges payable to the Commissioners of Public Works in Ireland, shall be made to such Commissioners, and the examiner shall, if necessary, issue a requisition for that purpose. It shall be the duty of the solicitor having carriage of the proceedings to furnish such evidence and documents as may be required for the apportionment.

Applications for apportionment of other superior interests to be by statement of facts.

3. Applications for the apportionment of impropriate tithe rent-charges, quit or Crown rents, rents, fees, services, rent-charges, or annuities, shall be made by statement of facts, verified by the solicitor having carriage of the proceedings, or by such other person acquainted with the facts as the Judge may direct.*

Preparation and lodgment of statement of facts.

4. The statement of facts shall be fairly written on post paper, with sufficient margin, and shall be filed in the registrar's office. If the superior interest to be apportioned be charged upon other lands besides the estate of the owner in the matter, and it is proposed to apportion with a view of freeing the entire of the owner's land from the superior interest in question, it must be shown in the statement that such apportionment is expedient, having regard to the contemplated sale of the residue of the estate or otherwise as the case may be.

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* But see now Sect. 61, Act 1903, *ante* p. 129; and Quit Rent Rules of 17th October 1903, *post* p. 319.

If the superior interest be contributed by the owners of the lands subject thereto in certain proportions, and it is proposed to apportion in like manner, the particulars of the origin of such contribution, whether under a partition or otherwise, should be set forth in the statement.

The statement shall be accompanied by an Ordnance Map, showing the entire lands out of which the superior interest to be apportioned is payable, and the portions between which it is proposed to apportion the same, and a certificate of the tenement valuation. The statement shall be laid before the Judge, who shall make such order or direct such notices to be given as he shall think fit.

The map used for the purposes of the sale should be adopted when suitable.*

Sealed counterparts of apportionment order to be issued to parties interested: printing of and maps thereon.

5. When a final order for apportionment has been made, a sealed counterpart thereof, written or printed on stout hand-made paper or parchment, shall be issued at the expense of the estate to the owner of the superior interest, and to the owner of any land upon which any portion of the superior interest which it is not intended to redeem has been apportioned. If four or more of such counterparts be required, the apportionment order shall be printed in such manner as the Judge may direct, and the original shall be filed in the registrar's office. If a map be referred to in the order it shall be drawn thereon by the Ordnance Survey Department.

Memorandum of apportionment to be endorsed on instrument creating superior interest.

6. A memorandum of the apportionment shall be endorsed by the registrar upon the instrument creating the superior interest apportioned if such instrument be forthcoming.

Forms of statements of facts.

7. Statements of facts for the apportionment of impropriate tithe rent-charges shall follow Form 2, for the apportionment of quit or Crown rents shall follow Form 3, for the apportionment of rents, fees, duties, or services shall follow Form 4, and for the apportionment of rent-charges or annuities shall follow Form 5, with such variations and additions in each case as the circumstances may require.

Certificate and copy of statement to be lodged when application is for apportionment of impropriate tithe rent-charge, or quit, or Crown rent.

8. When application is made for the apportionment of an impropriate tithe rent-charge, or of a quit or Crown rent, the tithe rent-charge or quit rent certificate, as the case may be, and a copy of the statement of facts shall be lodged with the original, and the registrar shall, before presenting the statement of the Judge, transmit such copy to the superintendent of the Church Property Department of the Land Commission, or to the Quit Rent Office, as the case may be, for report.†

9. When application is made for the apportionment of any rent,

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* But see Sects. 61 and 62, Act 1903, *ante* pp. 129 and 132.

† But see now Quit Rent Rules of 17th October 1903, *post* p. 319.

fees, duties or services, or of a rent-charge or annuity, the instrument creating the superior interest to be apportioned shall be furnished with the statement of facts, unless it be already lodged in Court.

Instrument creating rent, rent-charge, or annuity to be lodged with statement.

II.—*Redemption.*

10. Applications for orders for the redemption of all superior interests affecting the lands sold shall, if possible, be made at the hearing of the final schedule of incumbrances, and the Judge's decision shall be signified by rulings on the schedule. Any person interested may, however, require an order to be made up in accordance with any such ruling.

Application for redemption of superior interests to be made at hearing of final schedule of incumbrances.

11. When any quit or Crown rent, tithe rent-charge payable to the Land Commission, or fixed annual instalments payable in lieu thereof, or land improvement or drainage charge, is being redeemed, the solicitor having carriage of the proceedings shall produce to the examiner at the vouching of the final schedule of incumbrances, a receivable order from the Quit Rent Office, the Land Commission, or the Board of Public Works, as the case may be, to enable the redemption money and arrears, if any, to be lodged to the proper account in the Bank of Ireland. Such receivable order shall specify separately the amount of the redemption money and of the arrears, and shall allow at least seven clear days from the date of vouching for lodgment.

Redemption of quit and Crown rents, tithe rent-charge payable to Land Commission, and land improvement or drainage charges.

12. The application for an order for the redemption of any other superior interest, or of any apportioned part thereof, shall, if made by the person entitled thereto, be made on notice to the solicitor having carriage of the proceedings, and if made by such solicitor shall be made on notice to the reputed owner of such superior interest. Service must also be made on such other persons as may have entered appearances requiring notice of such an application, or as would appear to be affected by such redemption.

Applications for redemption of other superior interests to be on notice.

13. When the redemption of any superior interest or of any apportioned part thereof shall have been ordered, unless the price be agreed upon between the parties, or the determining of it referred to the Judge, within fourteen days from the date of the order, or within such further period as the Judge shall direct, the person who applied for such order shall serve upon the other party a request in writing to appoint an arbitrator following Form 6.*

Request to appoint arbitrator.

14. The solicitor having carriage of the proceedings shall take the Judge's directions as to the appointment of an arbitrator on behalf of the owner of the lands. The submission to an arbitration court and

Submission to arbitration court.

* But see now Sect. 64 of the Act of 1903, *ante* p. 138.

the appointment of the arbitrator or arbitrators and umpire shall be in Form 7, or in accordance therewith, and shall be fairly written upon foolscap paper, with sufficient margin, and be lodged in the registrar's office before the first sitting of the arbitration court. It shall be the duty of the officer receiving such submission to arbitration to see that the signatures thereto, other than that of the solicitor having carriage of the proceedings, are proved by affidavit.

Award.

15. The award shall be on foolscap paper, with sufficient margin, and shall follow Form 8, as nearly as the circumstances of the case admit, and shall determine who is to bear the costs of the arbitration. When either party desires the award of a court of arbitration to be recorded, he shall within ten days from the making of such award serve notice on the opposite party of his intention to apply to the Court for such purpose. As soon as the Judge orders the award to be recorded it shall be filed in the registrar's office together with the submission.

Vouching of title to superior interest.

16. The person entitled to the price or compensation payable in respect of a superior interest shall, unless there be a sufficient reason to the contrary, attend before the examiner on the vouching of the final schedule of incumbrances to prove his claim, and for that purpose shall, unless his title has already been investigated, file an affidavit setting forth concisely but accurately his title, and the particulars of all charges or incumbrances affecting his interest, and of any sum due for arrears or interest. Such affidavit may be lodged with the examiner at any time after the final schedule of incumbrances has been ruled.

Price of superior interest may be placed to separate credit and invested.

17. If by reason of incumbrances affecting a superior interest or for any other reason the price or compensation payable in respect thereof cannot be distributed at the general allocation, the Judge may order such price or compensation to be paid into the Bank of Ireland to such credit as he may direct, and may make such order as may be just as to the investment thereof, and as to the payment of the dividends and interest thereon pending its distribution.

Memorandum of redemption of superior interest to be endorsed on instrument creating same.

18. Except in the case of quit or Crown rents, tithe rent-charges, and land improvement or drainage charges, a memorandum of the redemption of a superior interest or of any apportioned part thereof shall be endorsed by the examiner upon the instrument creating such superior interest, unless such instrument be retained in Court.

Order VI.

Sales under the Land Purchase Acts ordered by a Land Judge.

Documents to be lodged by solicitor in Land Commission.

1. When any sale under the Land Purchase Acts has been made by a Land Judge, the solicitor for the purchaser, or the solicitor

having carriage of the proceedings, as the case may be, shall lodge in the examiner's office of the Land Commission the following documents:—

An attested copy of the rental (if any) upon which the estate or lot, as the case may be, was sold, with sealed map or maps annexed thereto.

The privity of the Accountant-General for the lodgment of the advance.

The receipt for the lodgment of any portion of the purchase money to be paid in cash by the purchaser.

An attested copy of any order made by a Land Judge as to the terms or conditions of the particular sale.

Any other document which the Land Commission may require.

The Land Commission shall then proceed to make the advance, and vest and charge the holding in accordance with the Land Commission Rules.

Single certificate and privity comprising a number of sales may issue.

2. Where sales to a number of purchasers have been made on any one estate at the same time, a single certificate comprising all the sales and a single privity for the lodgment of all the advances may be issued.

Stamp duty to be paid by solicitor.

3. If the conditions of sale, or the Land Judge's order provide that the sales are to be made to the tenants free of expense, the amount of the stamp duty payable on the vesting orders shall be paid by the solicitor having carriage of the proceedings, and he shall be entitled to the amount so paid as a first charge on the purchase money, and the same may on application be paid to him notwithstanding that the final schedule of incumbrances may not have been lodged or ruled.*

Order VII.

Taxation of Costs.

To be taxed by a taxing master.

1. The costs of all proceedings in relation to sales under the Land Purchase Acts, the proceeds of which are distributed by the High Court, shall, whether such costs were incurred in relation to proceedings in the High Court or in the Land Commission, be taxed by one of the taxing masters of the High Court on notice to such persons as the examiner may direct.

Scale of fees.

2. In the absence of any special agreement between a solicitor and his client, such costs shall, so far as the same were incurred in relation to proceedings in the High Court, be taxed according to the schedule of fees for the time being in force in relation to proceedings before the Land Judges, and so far as they were incurred in

* But see now Sect. 50 of the Act of 1903, *ante* p. 102.

relation to proceedings in the Land Commission, shall be taxed in accordance with the schedule of fees for the time being in force in relation to proceedings before the Land Commission under the Land Purchase Acts.

E. T. Bewley.
John Ross.

APPENDIX.

Form 1.

Final Notice to Claimants and Incumbrancers.

In the High Court of Justice in Ireland.

Chancery Division—Land Judges.

Land Purchase Acts.

Title of Matter.

Take notice that the final schedule of incumbrances affecting (*here describe the lands as they appear in the order for sale or originating statement, as the case may be, omitting the acreage in the case of entire townlands*) [parts of] which have been sold [and the residue of which it is contemplated selling] under the above Acts in fee simple freed and discharged from all superior interests as defined by Section 31 of the Land Law (Ireland) Act, 1896, and from all other charges and incumbrances, has been lodged in my office at [24, *Upper Merrion Street, Dublin* (or) *the Four Courts, Dublin*]; and any person having any claim not therein inserted, or objecting thereto, either on account of the amount or of the priority of any charge therein reported as due to him or to any other person (*here insert any special matter*), or for any other reason, is required to lodge an objection thereto, stating the particulars of his demand and duly verified, with the registrar of this Court, on or before the day of 189 , and to appear on the following day, the day of 189 , at o'clock, before Mr. Justice at his [*Court*, (or) *Chamber*] at [*the Four Courts, Dublin*, (or) 24, *Upper Merrion Street, Dublin*], when instructions will be given for the final settlement of the schedule. And further take notice that any demand reported by such schedule is liable to be objected to within the time aforesaid.

Dated this day of 189 .

Examiner

Solicitor

FORM 2.

Statement of Facts for the Apportionment of an Impropriate Tithe Rent-charge.

Heading and Title of Matter.

The statement of facts of

Showeth—

1. That the lands described in the schedule hereto are subject to an annual impropriate tithe rent-charge of £ *s.* *d.* payable to of .

2. That the said has been in receipt of the said rent-charge for [six years and upwards] as (*here state whether as owner in fee simple, as tenant for life, as trustee, as lessee under a lease of the rent-charge, or how otherwise. If the person entitled has not been in receipt of the rent-charge for six years, state for what period it has been paid to him*).

3. That [parts of] the lands described in the first part of the said schedule have been sold under the Land Purchase Acts [and it is contemplated selling under the said Acts the residue of such lands, and the same are the property of the said owner].

4. That the lands described in the second part of the said schedule are the property of the said owner, but it is not intended selling them under the said Acts.

Variations when all the lands are not the property of the owner.

[4. That the lands described in the second part of the said schedule are not the property of the said owner, and the name and address of the reputed owner thereof is stated therein.]

5. That save the proceedings herein, there is not any suit or matter pending in any Court in relation to the said rent-charge or lands, and that no person hereinbefore referred to is an infant, idiot, lunatic, or married woman [save—*here state the particulars of any suit or matter, and the names of any persons under disability, giving the names and addresses as the case may be of the guardian of infant, committee of lunatic, or husband of married woman*].

6. That it is expedient that the said rent-charge be apportioned, and the proposed apportionment set forth in the said schedule would be just and fair, having regard to the quantities and value of the lands and the rights of the persons interested.

Schedule referred to in the foregoing Statement.

Townlands, Parish, Barony and County. (Ordnance Survey Names only.)	Reference to Map.	Area in Statute Measure of each Townland or part of a Townland.	Tenement Valuation.	Proposed Apportionment.	Observation.
		A. R. P.	£ s. d.	£ s. d.	
		FIRST PART.			
A.—Lands which have been sold.					
B.—Lands which it is contemplated selling.					
		SECOND PART.			
A.—Lands the property of the owner not intended to be sold.					
B.—Lands the property of		of	in the county of		

I, the above-named , make oath and say that I have read the foregoing statement and the schedule thereto, and the same are true and accurate to the best of my knowledge, information, and belief.

Sworn, &c.

FORM 3.

Statement of Facts for the Apportionment of Quit or Crown Rent.*

Heading and Title of Matter.

The statement of facts of

Showeth—

1. That the lands described in the schedule hereto which form [part of] the ancient domination of are charged in the

* But see now Sect. 61 of the Act of 1903, *ante* p. 129, and Quit Rent Rules of 17th October 1903, *post* p. 319.

Crown Rental with a yearly (*quit, Crown, composition or otherwise*) rent of £ *s. d.* payable to Her Majesty the Queen under (*here specify the patent or other instrument creating the rent. If the application be for the apportionment of more rents than one, and they are charged upon different lands, there should be a separate schedule for each, and the statement should be varied accordingly*), and which is in receipt from [*A.B., or if the rent be contributed by two or more persons*, the persons named in the said Schedule in the proportions therein specified. *Here add the circumstances* (*whether under the provisions of a deed or otherwise*) *in which the rent is so contributed*].

2. That [parts of] the lands described in the first part of the said schedule have been sold under the Land Purchase Acts [and it is contemplated selling under the said Acts the residue of such lands, and the same are the property of the said owner].

3. That the lands described in the second part of the said schedule are not the property of the said owner, and the names and addresses of the reputed owners thereof are stated therein.

Variation when all the lands are the property of the owner.

[3. That the lands described in the second part of the said schedule are the property of the said owner, but it is not intended selling them under the said Acts.]

4. That no apportionment of the said rent has heretofore been made.

5. That save the proceedings herein, there is not any suit or matter pending in any Court in relation to the said lands, or to the rents and profits thereof, and that no person hereinbefore referred to is an infant, idiot, lunatic, or married woman [save—*here state the particulars of any suit or matter, and the names of any persons under disability, giving the names and addresses as the case may be of the guardian of infant, committee of lunatic, or husband of married woman*].

6. That it is expedient that the said rent should be apportioned, and the proposed apportionment set forth in the said schedule would be just and fair, having regard to the quantities and value of the lands and the rights of the parties interested.

Schedule referred to in the foregoing Statement.

Townlands, Barony, and County. (Ordnance Survey Names only.)	Reference to Map.	Area in Statute Measure of each Townland or part of a Townland.	Tenement Valuation.	Names and Addresses of Owners or reputed Owners.	Persons by whom Quit or Crown Rent has heretofore been paid and in what proportions.	Proposed Apportionment.	Observations.
		A. R. P.	£ s. d.			£ s. d.	
A.—Lands which have been sold.			FIRST PART.				
B.—Lands which it is contemplated selling.			SECOND PART.				

Affidavit as in Form 2.

FORM 4.

Statement of Facts for the Apportionment of Rent, Fees, Duties or Services.*

Heading and Title of Matter with the following addition :—

And in the matter of the apportionment of a rent of £ s. d. (*or otherwise as the case may be*) created by an indenture of [fee-farm grant *or* lease] dated the day of 18 .

The statement of facts of

Showeth—

1. That by the above-mentioned indenture of fee-farm grant (*or lease*) which was made between *A.B.* of the one part and *C.D.* of the other part, the said *A.B.* [in pursuance of the provisions of the Renewable Leasehold Conversion Act, *or otherwise as the case may be*]

* As to the new practice where the lands are indemnified against the superior interest, or portion thereof, see Sect. 62 of the Act of 1903, *ante* p. 132.

granted (*or demised*) to the said *C.D.* the lands described in the schedule hereto and in the said indenture described as (*here insert the description of the lands as in the grant or lease*) to hold to the said *C.D.* and his heirs for ever (*or his executors, administrators, and assigns for the term of, &c.*) subject to the yearly rent of £ *s.* *d.* payable half-yearly as therein mentioned, and to certain conditions, covenants, and agreements on the grantee's (*or lessee's*) part therein contained. (*Here state shortly the particulars of any instrument or circumstances by which the lands were partitioned, and by which any special liability for, or indemnity against any portion of the rent was created, with such statement of the devolution of title as may be necessary to make the statement of facts intelligible to the Judge.*)

2. That *E.F.* of , is the owner of the said rent of £ *s.* *d.*, and has been in receipt thereof for years and upwards.

3. That the said (i.e. *the person making the statement of facts*) has made inquiries to ascertain if there is any superior rent affecting the interest of the said *E.F.*, and to the best of his knowledge, information, and belief, there is no such superior rent (*or otherwise as the case may be*).

4. That [parts of] the lands described in the first part of the said schedule have been sold under the Land Purchase Acts [and it is contemplated selling under the said Acts the residue of such lands, and the same are the property of the said owner].

5. That the lands described in the second part of the said schedule are not the property of the said owner, and the names and addresses of the reputed owners thereof are stated therein.

Variation when all the lands are the property of the owner.

[5. That the lands described in the second part of the said schedule are the property of the said owner, but it is not intended selling them under the said Acts.]

6. That save the proceedings herein there is not any suit or matter pending in any Court in relation to the said rent or lands, and that no person hereinbefore referred to is an infant, idiot, lunatic, or married woman [save—*here state the particulars of any suit or matter, and the names of any persons under disability, giving the names and addresses as the case may be of the guardian of infant, committee of lunatic, or husband of married woman*].

7. That it is expedient that the said rent should be apportioned, and the proposed apportionment set forth in the said schedule would

be just and fair, having regard to the quantities and value of the lands, and the rights of the parties interested.

Schedule referred to in the foregoing Statement.

Townlands, Barony, and County. (Ordnance Survey Names only.)	Reference to Map.	Area in Statute Measure of each Townland or part of a Townland.	Tenement Valuation.	Names and Addresses of Owners or reputed Owners.	Proportions in which the Rent has heretofore been paid.	Proposed Apportionment.	Observations.
		A. R. P.	£ s. d.		£ s. d.	£ s. d.	
			FIRST PART.				
A.—Lands which have been sold.							
B.—Lands which it is contemplated selling.							
			SECOND PART.				

Affidavit as in Form 2.

FORM 5.

Statement of Facts for the Apportionment of a Rent-charge or an Annuity.*

Heading and Title of Matter, with the following addition :—

And in the matter of the apportionment of a rent-charge (*or annuity*) of £ created by a deed dated the day of 18 .

The statement of facts of

Showeth—

1. That by the above-mentioned deed, dated the day of 18 , and made between (*here state*

* As to the new practice where the lands are indemnified against the superior interest, or portion thereof, see Sect. 62 of the Act of 1903, *ante* p. 132.

the parties to the deed and its nature, whether a marriage settlement or otherwise). *A.B.* being then seized in fee of the lands described in the schedule hereto charged the same with an annuity of £
in favour of *C.D.* (*here specify the particulars of the rent-charge or annuity, whether the same was perpetual, for a term of years, for a life or lives, or by way of jointure, and the particulars of any term of years vested in trustees for securing such rent-charge or annuity. Here also state shortly the particulars of any instrument or circumstances by which the lands were partitioned or by which any special liability for, or indemnity against any portion of the rent-charge or annuity was created, with such statement of the devolution of title as may be necessary to make the statement of facts intelligible to the Judge*).

2. That *E.F.* of is the owner of and in receipt of the said rent-charge (*or annuity*).

3. That the [parts of] the lands described in the first part of the said schedule have been sold under the Land Purchase Acts [and it is contemplated selling under the said Acts the residue of such lands, and the same are the property of the said owner].

4. That the lands described in the second part of the said schedule are not the property of the said owner, and the names and addresses of the reputed owners thereof are stated therein.

Variation when all the lands are the property of the owner.

[4. That the lands described in the second part of the said schedule are the property of the said owner, but it is not intended selling them under the said Acts.]

5. That, save the proceedings herein, there is not any suit or matter pending in any Court in relation to the said rent-charge (*or annuity*) or lands, and that no person hereinbefore referred to is an infant, idiot, lunatic, or married woman (save—*here state the particulars of any suit or matter, and the names of any persons under disability, giving the names and addresses, as the case may be, of the guardian of infant, committee of lunatic, or husband of married woman*).

6. That it is expedient that the said rent-charge (*or annuity*) should be apportioned, and the proposed apportionment set forth in the said schedule would be just and fair, having regard to the quantities and value of the lands, and the rights of the parties interested.

Schedule referred to in the foregoing Statement.

Townlands, Barony, and County. (Ordnance Survey Names only.)	Reference to Map.	Area in Statute Measure of each Townland or part of a Townland.	Tenement Valuation.	Names and Addresses of Owners or reputed Owners.	Proportions in which the Rent-charge or Annuity has heretofore been paid.	Proposed Apportionment.	Observations.
		A. R. P.	£ s. d.		£ s. d.	£ s. d.	
A.—Lands which have been sold.			FIRST PART.				
B.—Lands which it is contemplated selling.							
			SECOND PART.				

Affidavit as in Form 2.

Form 6.

Request to Appoint an Arbitrator.*

Heading and Title of Matter.

Sir,—I hereby require you to appoint an arbitrator to determine the price to be paid for the (*here describe the superior interest, or the apportioned part thereof, as the case may be*), which has been ordered to be redeemed by order made in this matter and dated the day of 189 , a copy of which is annexed hereto, and all other matters which it appertains to the Court of Arbitration to determine pursuant to the Land Purchase Acts.

And take notice that if for the space of fourteen days from the date of the service of this request upon you, you fail to appoint such

* But see now Sect. 64 of the Act of 1903, *ante* p. 138.

arbitrator, I shall apply to the Court to determine the price, as is provided by the said Acts.

Dated this day of 189 .

(Signed) *E.F.*

Here follows a copy of the order for the redemption. If no formal order has been drawn up, a copy of an extract from the final schedule of incumbrances showing the particulars of the superior interest and the Judge's ruling thereon should be annexed.

FORM 7.

Submission to Arbitration and Appointment of Arbitrator and Umpire.*

Heading and Title of Matter.

Whereas the Honourable Mr. Justice , upon the day of 189 , made an order in the following terms, viz.:—(*recite in full the order for redemption*).

or,

[Whereas the following is an extract from the final schedule of incumbrances in this matter which was ruled by the Honourable Mr. Justice , on the day of 189 ;—(*Here recite the particulars of the superior interest as they appear on the schedule, with the Judge's ruling thereon*).]

It is hereby agreed by and between *A.B.*, the solicitor having the carriage of the proceedings herein, acting by direction of the Judge on behalf of the said owner, and *C.D.*, the owner (*or tenant for life or otherwise as the case may be*) of the said (*here describe the superior interest*) to refer the determining of the price of the said (*superior interest or apportioned part*) so ordered to be redeemed, to the award of *E.F.* of , and *G.H.* of , pursuant to the provisions of the Land Purchase Acts. Now the said *A.B.* hereby appoints the said *E.F.* to be and act as his arbitrator herein, and the said *C.D.* hereby appoints the said *G.H.* to be and act as his arbitrator.

Dated this day of 189 .

(Signed) *A.B.*

(Signed) *C.D.*

Signed by the said *C.D.* in presence of

* But see now Sect. 64 of the Act of 1903, *ante* p. 138.

The said *E.F.* and *G.H.*, the arbitrators so hereby appointed, do hereby and before entering upon the matters herein referred to them, in accordance with the provisions of the Land Purchase Acts, appoint *L.M.* of to be and act as umpire in case of differences between them.

Dated, &c.

Witness (Signed) *E.F.*
(Signed) *G.H.*

FORM 8.

Award.*

Heading and Title of Matter.

Whereas the Honourable Mr. Justice , by Order, dated the day of 189 , ordered that (*here describe the superior interest or apportioned part thereof*) should be redeemed. And whereas *A.B.* and *C.D.*, being unable to agree upon the price to be paid for (*such rent, or otherwise as the case may be*), have referred the determining of the price to be paid to *E.F.* and *G.H.* And by writing under their hands, dated the day of 189 , the said *A.B.* hath appointed *E.F.* to be and act as his arbitrator herein, and the said *C.D.* hath appointed *G.H.* to be and act as his arbitrator herein.†

Now we, the said arbitrators, having taken upon ourselves the burden of this reference, and having duly weighed and considered the documentary and other evidence given before us, do hereby publish our award in writing, in manner following, that is to say:—

We award and adjudge that the price to be paid for the said (*rent, or otherwise as the case may be*) is to be the sum of *l.* And we do further adjudge and award (*that each party do bear his own costs of the arbitration, and that they do pay in equal proportions our fees and expenses as such arbitrators, or otherwise as the case may be*).

In witness whereof we have hereunto set our hands this day of 189 .

(Signed) *E.F.*
Signed and published in the presence of (Signed) *G.H.*

* But see now Sect. 64 of the Act of 1903, *ante* p. 138.

Umpire's Award where Arbitrators are unable to agree.*

Proceed as before down to †

And whereas the said arbitrators so thereby appointed did, by writing under their hands, dated the day of 189 , before entering into the matter so referred to them, appoint me, *L.M.*, to be and act as umpire in case of difference between them. And whereas the said *E.F.* and *G.H.* have failed to make their award concerning the said price within twenty-one days after the said day of 189 (*or as the case may be*).

Now I, *L.M.*, having taken upon myself the charge of this reference, and having heard, examined, and considered the allegations, witnesses, and evidence of both parties concerning the said price, do make this my award, in writing of and concerning the said price in manner following, that is to say:—

I award and adjudge, &c. (*as before*).

Directions as to the Preparation and Settlement of Draft Final Schedules of Incumbrances.

1. When bringing in the draft final schedule of incumbrances for settlement the solicitor should lodge—

(*a*) The rulings on title.

(*b*) The draft requisition for searches as settled.

(*c*) The registry of deeds and judgment searches.

(*d*) Certificates from the Quit Rent Office, the Land Commission, and the Board of Public Works specifying respectfully the Quit or Crown Rents, tithe rent-charges or tithe annuities, and land improvement or drainage charges affecting the lands.

(*e*) A certificate as to whether deeds have been lodged subject to lien.

(*f*) Office copies of any orders that may have been made for apportionment or redemption of superior interests as defined by Section 31 of the Land Law (Ireland) Act, 1896;

and if the proceedings originated in the Land Judges' Court.

(*g*) A certificate of the claims filed, and office copies of all such claims.

2. If the proceedings originated in the Land Commission the schedule shall, unless the Judge otherwise directs, be settled as regards all the lands comprised in the originating statement, except such as are therein stated to be excluded from the proceedings.

3. The schedule shall show all charges which, having regard to

* But see now Sect. 64 of the Act of 1903, *ante* p. 138.

the abstract of title, and the result of the searches, shall appear to affect the lands, or to be a lien upon or payable out of the purchase money; and the charges shall be placed in such order of priority as may appear to be in conformity with the *primâ facie* rights of the parties; and shall also show, as nearly as can be ascertained, the sums due for principal, and such schedule shall also state the names of the several persons who may be entitled to the surplus fund after payment of charges.

4. Charges in equal priority should receive the same number and a distinguishing letter, and there should be a statement at the foot that they are in equal priority.

5. The name, description, and address of every party entitled to any charge should be accurately stated, and the date of registering, parties' names, and short description of the instrument by which it is created; if it is founded upon a judgment, the sum recovered, the year, and term, and Court, and the names of the parties to the judgment should be stated. When the claimant is not the original mortgagee, the devolution should be concisely but accurately stated as far as practicable.

6. Superior interests affecting the lands (except rent-charges or annuities in the nature of incumbrances) should usually appear in priority to all incumbrances and to the costs of the proceedings.

7. Annual charges, such as quit rents, tithe rent-charges, head rents, Board of Works charges and annuities, should be described as such; but when an order for their redemption has been made, a note of it should be inserted in the column "Particulars of Demand"; and if the price has been fixed, it should be inserted in the "Principal" column; and, unless each of such charges affects all the lands, the denominations which each affects should be stated.

8. Costs awarded by order to any party against the fund, and costs of lodging deeds pursuant to notice or order, should appear as distinct items on the schedule; but costs awarded to any claimant as payable with his demand, and the costs of the proof of any claim on the schedule, and the arrears of any rent, rent-charge, or annuity should not appear as distinct items, but be inserted in the proper columns opposite the particulars of the demand.

9. When the proceedings originated in the Land Commission, and the vendor is a tenant for life, there should be set out, after the demand of the trustees of the settlement for the residue, any charges upon the life estate, describing them as such.

10. If different portions of the estate are subject to different incumbrances, the schedule should be prepared in parts; but if there be common incumbrances as well, they should be set out *in extenso*,

and vouched in one part only, and briefly referred to in the other parts.

11. The examiner shall endorse in the fold of the draft schedule any special directions as to the form or publication of the final notice to claimants.

RULES, DATED OCTOBER 26, 1896, UNDER SECTION 23 OF THE LAND LAW (IRELAND) ACT, 1896.*
1896. No. 927.

Land Commission and Land Judge.

It is this day ordered, pursuant to the provisions of the 23rd Section of the Land Law (Ireland) Act, 1896, that the following Rules shall from and after this date, and until further order, take effect and be in force in the Land Commission and Land Judge's Court respectively:—

1. There shall be vested in the Land Judge of the Chancery Division all the jurisdiction and powers conferred on or exercisable by the Judicial Commissioner of the Land Commission, by or under any statute or any rules for the time being in force made under the provisions of any statute, in respect of—

(i.) Any matter arising under the Land Purchase Acts as amended by the Land Law (Ireland) Act, 1896; and

(ii.) Any appeal or rehearing under the Land Law Acts, as amended by the Land Law (Ireland) Act, 1896.

2. There shall be vested in the Judicial Commissioner of the Land Commission all the jurisdiction and powers existing at the commencement of the Land Law (Ireland) Act, 1896—

(i.) Of the High Court or any Judge thereof, either as successors of the Landed Estates Court and the Judges thereof, or under the Record of Title (Ireland) Act, 1865, or the Local Registration of Title (Ireland) Act, 1891; and

(ii.) Of the Land Judge of the Chancery Division and of the Receiver Judge under any enactment conferring any jurisdiction upon either of such Judges as such.

3. The jurisdiction and powers hereby conferred on the Land Judge and Judicial Commissioner respectively shall be exercised by and distributed between them in such manner as they shall from time to time arrange.

4. The proceeds of any sale under the Land Purchase Acts paid or transferred into the High Court shall be distributed by a Land Judge, and for the purpose of such distribution such Land

* These Rules are made applicable to proceedings under the Act of 1903 by Rules of 11th January 1906, *post* 559.

Judge shall have all such jurisdiction and powers as are conferred on or exercisable by the Land Commission in addition to any other jurisdiction and powers he otherwise possesses.

5. Where a sale has been ordered by a Land Judge under the Land Purchase Acts, the Land Commission shall have the same jurisdiction and powers to carry such sale into effect and to vest the lands sold in the purchaser as they have where a holding is sold by a landlord to a tenant, and it is agreed that such sale shall be carried out by a vesting order of the Land Commission.

6. The Court of the Land Commission in Dublin, shall, when hearing appeals or rehearing cases, be held at the Four Courts, Dublin.

ASHBOURNE, *C.*
E. T. BEWLEY.
JOHN ROSS.

SUPREME COURT OF JUDICATURE, IRELAND, CHANCERY DIVISION, LAND JUDGES, AND IRISH LAND COMMISSION.

RULES, DATED JANUARY 23, 1897, IN RELATION TO PROCEEDINGS UNDER SECTION 40 OF THE LAND LAW (IRELAND) ACT, 1896.

It is this day ordered that the following Rules and Orders shall from and after this date and until further order take effect and be in force in relation to proceedings under Section 40 of the Land Law (Ireland) Act, 1896.

ORDER I.

Construction of Terms.

Definitions.

In these Rules and Orders "the Act" shall mean the Land Law (Ireland) Act, 1896; "Land Commission" shall mean the Irish Land Commission; "registrar" shall mean the registrar of the Land Judges' Court; and "examiner" shall mean the examiner attached to the chamber of the Land Judge, but shall not include the examiners of the receiver office.

ORDER II.

Preparation of Returns and Proceedings towards obtaining a Report of the Land Commission.

1. The estates coming within the provisions of Sub-section (1) of Section 40 of the Act in respect of which the Land Judge shall in the

first instance issue a request to the Land Commission pursuant to the provisions of the said Section, shall, subject as hereinafter mentioned, be those which have been already offered for sale in the Land Judges' Court, over which a receiver has been appointed, and the rents and profits receivable in respect of which appear from the last receiver's account passed before the date hereof to be insufficient to discharge in full the expenses of management and all outgoings, including the interest on incumbrances charged thereon.

Class of estates in respect of which requests are to be issued in first instance.

2. It shall be the duty of the registrar and the assistant examiner of the receiver office forthwith to prepare returns of the estates so circumstanced, stating as regards each estate the names of the owner and petitioner, the date of the order first appointing a receiver, the date or dates at which the estate has been offered for sale, the number of the tenants, and the total amount of the yearly rents and profits receivable, as shown by the last receiver's account passed, the total amount of the annual outgoings including interest on incumbrances, so far as the same are disclosed, and the actual sum received for rents and profits during the last year dealt with in such account: Provided always that estates situate within or partly within a congested districts county may be excluded from such return.

Returns to be prepared.

3. The first of such returns shall include those estates over which a receiver was appointed in or prior to the year 1881, and each succeeding return shall comprise estates over which a receiver was appointed within a period of five years.

Periods covered by returns.

4. Each return shall be laid before the Land Judge, who, subject as hereinafter mentioned, shall thereupon from time to time direct that such request as in the said Section provided shall issue to the Land Commission in respect of each estate appearing in such return, either in the priority of the date of the order appointing a receiver over the estate or in such other priority as under the circumstances of the case may appear to him to be just.

Request to be issued in respect of estates in return.

5. The Land Judge shall from time to time select from each such return such number of estates as he shall consider can be conveniently dealt with at one time, and to which *primâ facie* the provisions of Sub-section (1) of Section 40 of the Act are applicable. Such matters shall be entered in the Judge's list, and for ten days prior to the day appointed for disposing of the same, a notice in Form No. 1 in the schedule to these Rules, or in such other form as the Judicial Commismissioner and the Land Judge shall from time to time direct, shall be published in the Court List each day.

Notice prior to issue of request.

6. The Land Judge may also, on the application of any person interested in any estate coming within the provisions of Section 40 of

Issue of request on application by person interested.

the Act, or in the sale thereof, direct that such request shall issue, if the circumstances of the case appear to him to make such course desirable.

Form of application.

7. Such application may be made *ex parte*, and shall be grounded on an affidavit setting forth the facts which are relied upon as showing that the estate is one to which the provisions of the said Section apply; but before any direction that such request shall issue is given, the matter shall be entered in the Judge's list, and such notice thereof shall be given as is by Rule 5 of this Order provided in respect of the matters therein mentioned, with any necessary modifications.

Preparation of request.

8. In all cases where the Land Judge directs that such request shall issue, it shall be prepared by the solicitor having carriage of the proceedings in the matter, and shall be in Form No. 2 in the schedule to these Rules, or such other form as the Judicial Commissioner and the Land Judge may from time to time direct, and when signed by the Judge, it shall be lodged with the secretary of the Land Commission.

Court rental to accompany request.

9. Whenever a rental shall have been settled in the Land Judges' Court of the estate which shall be the subject of such request, two copies of such rental, one of which shall be attested and have a sealed map annexed, shall be lodged with the request.

Special rental when Court rental not settled.

10. If no rental of such estate shall have been settled, then, if the Land Judge shall so direct, the solicitor having carriage of the proceedings shall lodge with the request a rental prepared by himself, setting forth as accurately as the means at his disposal will permit, the names of the lands as given on the Ordnance Survey, and the county, barony, in which they are situate, the name of each tenant, the area in statute measure of the land comprised in each holding, the tenement valuation, the tenure of each tenant, the yearly rent and gale days, and if the rent is a judicial one, the date at which it was fixed, and whether by the Land Commission or the Civil Bill Court. Along with such rental shall be lodged the surveyor's report and map, if there has been a survey, or if there has been no survey a map and schedule of areas prepared in accordance with the Land Commission Rules so far as they are applicable. Provided however that where a final notice to tenants has been served, but a rental has not been settled, the Judge may, if he thinks fit, postpone the issuing of such request to the Land Commission for inspection until the rental shall have been finally settled.

Copy of Receiver's account to be lodged with request.

11. In every case a copy of the last account passed by the receiver (where there is a receiver), and a certificate of the existing tenement valuation shall be lodged with the request. The solicitor having

carriage of the proceedings shall also furnish to the Land Commission such other documents as they may require.

12. When the returns referred to in Rule 2 of this Order have been prepared, further returns shall from time to time be prepared, in like form, and for the like periods, of all other estates for the time being pending for sale in the Land Judges' Court to which the provisions of Sub-section (1) of Section 40 of the Act are *primâ facie* applicable, and the like proceedings shall be taken in respect of such returns and the estates therein respectively mentioned as are by the several Rules of this Order directed to be taken in respect of the returns mentioned in Rule 2, and the estates referred to in Rule 1, with such modifications, if any, as the circumstances may require.

Returns of other estates and proceedings thereon.

Order III.

Abstract of Title and Ascertainment of Superior Interests.

1. If the abstract of title to the estate has not been lodged, the solicitor having carriage of the proceedings shall prepare and lodge the abstract within twenty-one days after the request to the Land Commission to inspect and report has been issued, or within such further time as the examiner shall certify to be reasonable.

Lodgment of abstract of title.

2. When an estate has been referred to the Land Commission for inspection and report, the solicitor having carriage of the proceedings shall at once proceed to ascertain what superior interests, as defined by Section 31 of the Act (if any), affect the lands, and the names of the owners or reputed owners of such interests; and he shall obtain certificates from the Quit Rent Office, the Land Commission, and the Board of Public Works specifying respectively the quit or Crown rents, tithe rent-charges, or tithe annuities, and land improvement or drainage charges affecting the lands.

Persons having carriage of proceedings to ascertain superior interests.

3. All persons in receipt of or entitled to any rent, fees, duties, services, or royalties issuing out of or to be rendered in respect of the lands ordered to be sold, or any part thereof, shall be bound to furnish to the solicitor having carriage of the proceedings such evidence as may be necessary to enable his compliance with Rule 2 of this Order; and such persons shall be entitled to their costs reasonably incurred in connection therewith, the same to be paid by such person or persons, or in such manner as the Judge may direct.

Persons in receipt of head rents, &c., are to furnish evidence.

4. The Judge may, upon the application of the solicitor having the carriage of the proceedings, authorise the examiner to issue a requisition under his hand requiring any such person as aforesaid to furnish on oath such evidence as may be necessary to enable com-

Requisition by examiner; punishment for disobedience.

pliance with Rule 2 of this Order, and any person refusing, or wilfully omitting without sufficient reason to comply with such requisition within the time thereby limited, shall be deemed guilty of a contempt of Court, and may be dealt with accordingly.

Order IV.

Report of Land Commission.

Report to be lodged in Registrar's office for public inspection.

The Report of the Commissioners when made shall be transmitted to the registrar, and shall be laid by him before the Judge, who may either refer it back to the Land Commission for further report upon any matter, or may direct it to be lodged in the registrar's office for public inspection. Any person interested may obtain an office copy of a report so lodged on payment of the usual fees.*

Order V.

Notice of intended Sales under Land Purchase Acts.

Person having carriage of proceedings to prepare notice.

1. When the report has been lodged in the registrar's office, the solicitor having carriage of the proceedings shall attend before the examiner to have a day fixed for the consideration of the report by the Judge, and shall prepare and have settled by the examiner a notice of the intended sales under the Land Purchase Acts, which shall be in Form No. 3 in the schedule hereto, with such variations as the nature of the case may require, or in such other form as the Judicial Commissioner and the Land Judge shall from time to time direct.

Service and publication of notice.

2. The notice shall be served upon the owner or owners, upon all persons who have entered appearances, or upon their respective solicitors, and upon all such other persons (including the reputed owners of any superior interest which it may be necessary to redeem, or to apportion and redeem) as the examiner shall by writing endorsed on such notice direct, and copies thereof shall be transmitted through the consolidated notice office to the several persons reported by the Land Commission to be in occupation of the lands as tenants or otherwise to the postal addresses stated in such report, and the notice may be published in such newspapers and be posted in such manner as the Judge may direct.

* But see now Sect. 58 of the Act of 1903, *ante* p. 124.

3. All services, publications, and postings shall be made not later than twenty-one days before the date fixed for the consideration of the report by the Judge unless he shall otherwise direct.

Services and publications to be made twenty-one days before date fixed for consideration of report

4. Not less than one week before the date fixed for the consideration of the report, the solicitor having carriage of the proceedings shall attend in the examiner's office to vouch the services, publications, and postings of the notice of the intended sales under the Land Purchase Acts.

Vouching of services and publications.

Order VI.

Offers for Purchase by Persons other than the Tenants.

1. It shall be the duty of the solicitor having carriage of the proceedings to submit to the Judge upon the consideration of the report any offers that may have been made by any person other than a tenant for the purchase of the estate or any part thereof.

Solicitor having carriage of proceedings to submit offers received.

2. Such offers shall be in such form as the Judicial Commissioner and the Land Judge may from time to time direct, and may be made subject to such conditions as to the time for which they shall remain binding on the person making the same, or otherwise, as to the Land Judge may seem fit.

Form of offers.

Order VII.

Offers by Judge to Sell to Tenants.

1. The particulars and conditions of the Judge's offer to sell to the person appearing to be in occupation as tenant of each holding shall be written by him on the rental or taken down in writing by the examiner, together with the limit of time for the acceptance of such offer from the date of the communication thereof, and an order shall be made that offers be prepared in accordance with such directions.*

Order that offers be made.

2. A certified copy of the order shall be transmitted to the Secretary of the Land Commission, and the offers shall thereupon be prepared in accordance with such directions by the Land Commission, and shall be in such form as the Judicial Commissioner and the Land Judge may from time to time direct, and the Land Commission shall communicate such offers to the persons respectively appearing to be in occupation as tenants, without delay.

Offers to be prepared and communicated by Land Commission.

3. The Land Commission, in all cases where the offers are accepted and the conditions fulfilled, shall notify the fact to the Judge and to the solicitor having carriage of the proceedings, and the latter

Land Commission to notify acceptance of offers; consequent proceedings.

* As to offers to minors and lunatics, see Additional Rules, dated 2nd July 1898, under Sect. 40, Act 1896, *post* p. 295; and see Rules, dated 2nd July 1898, under Lunacy Regulation Act, 1871, *post* p. 296.

shall forthwith take the necessary proceedings and furnish the necessary documents to enable the Land Commission to vest the several holdings in the respective purchasers.

Land Commission to notify non-acceptance of offers.

4. If the offers or any of them be not accepted within the time limited, the Land Commission shall report to the Judge thereon, and shall notify the fact to the solicitor having carriage of the proceedings.

Order deeming tenant to have accepted offer not to be made without notice.

5. The Judge shall not make an order under Sub-section (1) (*d*) of Section 40 of the Act that a tenant be deemed to have accepted the offer made to him without causing notice to be given to such tenant.

Copy of order to be lodged with Land Commission.

6. When any such order is made, the solicitor having carriage of the proceedings shall forthwith lodge an office copy thereof with the Secretary of the Land Commission.

Order VIII.

Appeals.

Application for leave to appeal to be made within ten days of date of order.

1. Any person aggrieved by any order of the Land Judge made in proceedings under Section 40 of the Act, may, within ten days after the date of such order, apply to the Judge for liberty to appeal, and when such liberty is refused may apply to the Court of Appeal for liberty within one week after such refusal. Where liberty is granted, the notice of appeal shall be lodged within fourteen days thereafter.

Security for costs.

2. The Court of Appeal or the Judge may require the person appealing against any such order to lodge in Court to the credit of the matter, within a time to be named, such sum as the Court or the Judge may consider proper, and if such sum is not lodged within the time fixed, the order giving liberty to appeal shall stand discharged.

Payment out of deposit.

3. When the appeal has been disposed of any sum so lodged shall be paid to such person or persons as the Court of Appeal or Judge may direct.

Order IX.

Obstruction to, or Delay in, conduct of Proceedings.

Receiver to furnish information.

1. It shall be the duty of the receiver to furnish to the person having carriage of the proceedings, or to his solicitor, or to any officer of the Court or of the Land Commission, such information, documents, and assistance, as they or any of them may require in relation to the proceedings under Section 40 of the Act.

2. Any receiver under the Court refusing to furnish such information, documents, or assistance, or in any way interfering with or obstructing the person having carriage of the proceedings, or his solicitor, or any officer of the Court or of the Land Commission in discharge of their duties under the said Section, or under these Rules and Orders, or dissuading or endeavouring to dissuade any person from accepting an offer to sell, made to such person by the Judge, shall be reported to the Judge, who, if he considers that misconduct is proved, may discharge such receiver from any receivership which he may hold under the Court, or deal with him as guilty of contempt of Court. Refusal to give information or obstruction of proceedings a contempt of Court.

3. The examiner shall keep a special record of proceedings under Section 40 of the Act, and shall report to the Judge any delay in the conduct of such proceedings, and when certifying for the taxation of the costs, if there has been undue delay in the conduct of any proceedings he shall so state in his certificate, and no costs shall be allowed in respect of any proceeding which has been unduly delayed without the direction of the Judge. Costs in case of delay.

Order XII.

Costs.

1. In every proceeding under Section 40 of the Act, the Judge shall have full power and discretion as to the giving or withholding of costs and expenses, and as to the persons by whom and the funds out of which the same shall in the first instance or ultimately be paid, repaid, and borne, and shall and may apportion the same amongst such parties, and in respect of interest, rents, or income, and principal or corpus, as he shall think fit.* Costs.

SCHEDULE.

Form No. 1.

Land Law (Ireland) Act, 1896. Section 40.

The following cases will appear in the list of the Honourable Mr. Justice on the day of next.

(*Here insert the names.*)

The Judge will, on the above-mentioned day, consider and determine whether the conditions mentioned in Sub-section (1) of Section

* See Schedule of Fees of March 19, 1900, *post*, p. 297.

40 of the said Act apply to the said estate respectively, and will hear any application then made on behalf of any persons interested in any of such estates or in the sale thereof, founded upon special circumstances applicable to any of such estates, in reference to the issuing of a request to the Land Commission under the provisions of the said Section.

Form No. 2.

In the High Court of Justice in Ireland.

Chancery Division—Land Judges.

Request to Land Commission to Inspect and Report.

In the Matter of the Estate of , *Owner;*
Ex parte , *Petitioner.*

I request the Land Commission to cause the Lands mentioned in the Schedule annexed hereto, being the estate (*or* part of the estate) directed to be sold by order made in this matter dated day of 18 , to be inspected, and that a report shall be made by two Commissioners * respecting such estate, the circumstances thereof, and the price at and the conditions under which the sale of the holdings to the tenants under the Land Purchase Acts can properly be made.

Schedule of lands above referred to.

Form No. 3.

Notice of Intended Sales under the Land Purchase Acts.

In the High Court of Justice in Ireland.

Chancery Division—Land Judges.

In the Matter of the Estate of , *Owner;*
Ex parte , *Petitioner.*

Whereas the Land Commission have, in pursuance of the 40th Section of the Land Law (Ireland) Act, 1896, caused the lands described in the Schedule hereto which have been ordered to be sold in this matter to be inspected, and have reported respecting the said lands, and the circumstances thereof, and the price at, and the conditions under which the sale of such lands to the tenants

* The report is now made by *one* Commissioner; see Sect. 58, Act 1903, *ante* p. 124.

thereof under the Land Purchase Acts can properly be made, let all persons take notice that the report of the Land Commission has been lodged with the registrar of this Court for public inspection, and will come before the Honourable Mr. Justice for his consideration on day the day of 189 , at o'clock, at his Court at the Four Courts, Dublin, when all parties interested are at liberty to attend; and meanwhile offers for the purchase of the said lands, or any part thereof, may be sent to the solicitor having carriage of the proceedings, who will submit any such offers to the Judge on the consideration of the report.

Dated this day of 189 .

, *Examiner.*

Solicitor having carriage of the proceedings.

SCHEDULE.

Here insert the lands, using the Ordnance Survey names only, and stating the barony and county, and, if part only of a townland is being dealt with, the area in statute measure of such part.

ASHBOURNE, *C.*
E. T. BEWLEY.
JOHN ROSS.

FURTHER RULES IN RELATION TO PROCEEDINGS UNDER SECTION 40 OF THE LAND ACT, 1896.

THE SECOND DAY OF JULY 1898.

It is this day ordered that the following rules, shall, from and after this date and until further order, take effect, and be in force in relation to proceedings under Section 40 of the Land Law (Ireland) Act, 1896:—

(1.) Where a person to whom it is necessary that an offer should be made in pursuance of the above-mentioned Section is a minor, or a person of unsound mind, not so found by inquisition, the Land Judge of the Chancery Division of the High Court of Justice in Ireland may appoint a guardian of such person for the purpose of any proceedings under the said Section, and may from time to time change such guardian.

(2.) It shall be the duty of any person who shall under the foregoing rule be appointed guardian *ad litem* of a person of unsound mind within ten days from the date of his

appointment to lodge with the Registrar in Lunacy a copy of the order appointing him as such guardian, and to apply to the Lord Chancellor for such order (if any) as may be required.

LUNACY REGULATION ACT, 1871.

Rules of 2nd July 1898.

General Order.

I, the Right Honourable Edward Baron Ashbourne, Lord High Chancellor of Ireland, in exercise and pursuance of the powers in this behalf vested in me by the Lunacy Regulation (Ireland) Act, 1871, and of all other powers me thereto enabling, do hereby order and direct that every notice or return given or made to the Registrar in Lunacy by the Guardian *ad litem* of a person alleged to be of unsound mind appointed by the Land Judge pursuant to any rule made under the Land Law (Ireland) Act, 1896, shall set forth the name, residence, and description of such Guardian, the name, last residence, present abode, and description of the person alleged to be of unsound mind, the name, residence, and description of the person in whose custody or care the person alleged to be of unsound mind is, and the age and full particulars of the property of such last-mentioned person. Such return shall have annexed thereto a copy of the order made by the Land Judge, and a docket of the application (if any) intended to be made to the Lord Chancellor in Lunacy. And if it shall appear that such application can be made under the provisions of the 68th Section of the Lunacy Regulation (Ireland) Act, 1871, the procedure shall, notwithstanding any General Orders heretofore made under the said last-mentioned Act, be as follows:—

(1.) The said Registrar shall, immediately on receipt of such notice or return, and on being satisfied that the application is within the provisions of the Section aforesaid, direct one of the Medical Visitors to visit the person alleged to be of unsound mind, and to make such report as is directed by the 11th Section of the said Act, and such Medical Visitor shall inform the person alleged to be of unsound mind of the nature of the application, and that if he objects to the suggested order he is, within four days, to give notice in writing to the Registrar in Lunacy. And the Medical Visitor shall in his report

specially certify that he has so informed the person alleged to be of unsound mind, and shall further state whether such person was, in his opinion, capable of understanding or exercising such right of objection.

(2.) On the expiration of the period of four days from the date of the visit of the Medical Visitor the said Registrar shall submit to the Lord Chancellor the report of the Visitor, together with the order made by the Land Judge and any evidence lodged in support of the application, and the notice of objection (if any) received from the person alleged to be of unsound mind, and the Lord Chancellor may, on consideration of the same, either make an order thereon without any attendance of counsel, solicitor, or parties, or may direct the application to be set down for hearing, or may refer it to the Registrar in Lunacy to make particular inquiry respecting any matter to which the application relates.

Every notice or return given or made by such Guardian *ad litem* as aforesaid, shall be deemed to be a return made under the provisions of the 68th Section of the Lunacy Regulation (Ireland) Act, 1871.*

ASHBOURNE, *C.*

SCHEDULE OF FEES OF 19TH MARCH 1900.

HIGH COURT OF JUSTICE IN IRELAND.

CHANCERY DIVISION—LAND JUDGES.

In the taxation of costs incurred in proceedings before the Land Judge the additional items mentioned in the Schedule hereto shall be allowed by the Taxing Masters, and the modifications of the existing Schedule of Fees, also set forth in the Schedule hereto, shall have effect, and all costs shall be taxed in accordance therewith.

SCHEDULE ABOVE REFERRED TO.	£	s.	d.
1. Draft request to Irish Land Commission under Section 40, Land Law (Ireland) Act, 1896 (if 6 folios or under)	0	5	0
2. For each additional folio	0	0	8
3. Copy of same for settlement by Examiner, for each folio	0	0	4

* See also Rules of 8th February 1905, *post* p. 351.

	£	s.	d.
4. Attendance on Examiner to settle same	0	6	8
5. Attendance at Land Commission lodging same	0	6	8
6. Draft notice for consideration of report (if 6 folios or under)	0	6	8
7. Or at the option of the Solicitor, per folio	0	0	8
8. Attendance on Examiner, with same for settlement and directions as to service and advertisements	0	6	8
9. Copies of all notices, deeds, affidavits, and other documents, including copies of documents to be furnished by mortgagees under Rule 20 of the General Orders of 1859, for 6 folios or under	0	2	0
10. For each succeeding folio	0	0	4
11. Draft Schedule of tenants' names, areas, prices, &c., to annex to order directing offers to the tenants for each tenancy	0	0	6
12. Attendance at Land Commission for notification of sanctioning advances	0	6	8
13. For preparation of draft final Order under Section 40, Land Law (Ireland) Act, 1896, where the number of tenancies does not exceed six	1	10	0
14. For each additional tenancy exceeding six	0	0	6
In lieu of the fee of 5s. heretofore allowed for drawing special notices the fee to be allowed shall be—			
15. Draft special notice	0	5	0
16. Or at the option of the Solicitor, per folio	0	0	8
17. Draft requisition to Quit Rent Office as to quit rents, Church Property Department of Land Commission as to tithe rent-charge, and Board of Works as to drainage charges	0	6	0
18. Or at the option of the Solicitor, per folio	0	0	8
19. Drawing certificate of appearances, if under 5 folios	0	3	4
20. For each additional folio beyond five	0	0	8
21. Drafting, comparing, and certifying Schedule of Lands to be inserted in Order for request under Section 40, Land Law (Ireland) Act, 1896	0	6	8
22. Or per folio, at option of Solicitor	0	0	8
23. To Solicitor for marking each exhibit referred to in an affidavit	0	1	0
24. Commissioner's fee for marking each such exhibit	0	0	6
25. Not to exceed in all	0	10	0
26. For drafting affidavits, accounts, charges, discharges, abstracts of title, statements, consents, undertakings, admissions, objections, advertisements, cases,			

	£	s.	d.
or instructions for Counsel, and all other proper and necessary documents for the drafting of which other documents a specific fee is not already hereby or in the existing Schedule of fees provided . .	0	6	0
27. Or at the option of the Solicitor, per folio . .	0	1	0

NOTE.—In the cases covered by the two last-mentioned items, the fees allowed shall include any copy made for use of the Solicitor, agent, or client, or for Counsel to settle.

28. For perusing accounts, statements, special affidavits, or objections to final schedules or consolidated final notice, and also old abstracts of title used for purposes of showing title in a pending matter . .	0	6	8
29. Or at the option of Solicitor, per folio . . .	0	0	4
But not to exceed £10 unless by order of the Judge.			
30. To the Solicitor who has obained an order (where he shall be required by the proper officer to draft same, and such officer shall so certify), for drafting same, including copy for use and fair copy for Court and attendance to have settled	0	6	8
31. Or at option of Solicitor, per folio . . .	0	1	0
32. To the Solicitor having carriage of sale, for perusing and checking vesting order prepared by the Land Commission, or by another Solicitor, a similar fee to that allowed by items 160 and 161 of the Schedule of Fees for perusing and approving draft conveyance.			
33. In cases of sales, under the Land Purchase Acts, for all proper and necessary attendances upon the Officers of the Land Commission or Land Judges' Courts in connection with such proceedings where not already provided for, at per hour or fraction of an hour .	0	6	8
34. At item 20 in the Schedule of Fees of 18th July 1859, substitute for £1	2	2	0
35. Certificate of taxation and all copies . . .	0	5	0
36. The Taxing Masters shall be at liberty to allow, in necessary and proper cases, fees to Counsel on perusing and settling affidavits and other documents in addition to those mentioned in the note to item 161 of the Schedule of Fees of the 18th July 1859.			
37. The Taxing Masters shall, notwithstanding the note to item 42 of the Schedule of Fees of the 18th July 1859, be at liberty in necessary and proper cases to			

	£	s.	d.
allow the costs of consultations and conferences; but no costs of consultation or conference shall be allowed either between party and party or solicitor and client without a certificate of the senior or only Counsel that such consultation or conference was necessary and proper.			
38. For the purposes of allowances on taxation of costs documents which are typed shall be allowed for as if written in manuscript.			
39. Allowance is to be made for the necessary expenses of postages, telegrams, carriage and transmission of documents.			
40. Attendance to lodge costs for taxation, and have same allocated	0	6	8

Dated 19th March 1900.

JOHN ROSS.

RULES, DATED MAY 21ST, 1900, MADE BY THE IRISH LAND COMMISSION UNDER THE CONGESTED DISTRICTS BOARD (IRELAND) ACT, 1899, SECTION 2.

STATUTORY RULES AND ORDERS, 1900. No. 340.

It is this day ordered that the following Rules shall, from and after this date and until further Order, take effect and be in force in relation to proceedings under Section 2 of the Congested Districts Board (Ireland) Act, 1899.

In these Rules (except where the context otherwise requires) "The Board" means "The Congested Districts Board."

"The Commission" means "The Irish Land Commission."

"The Commissioner" means one of the Irish Land Commissioners, and includes the Judicial Commissioner.

1. Every application by the Board under the Congested Districts Board (Ireland) Act, 1899, Section 2, shall be grounded on a Minute of the Board, and shall be commenced by a Request and Undertaking in the Form in the Appendix hereto (with such variations as the case may require) signed by the Secretary to the Board and lodged with the Registrar of the Commission.

2. Upon the lodgment of such Request and Undertaking the application shall be a proceeding pending in the Court of the Irish Land Commission, and thereupon the Request and Undertaking shall

be laid before the Judicial Commissioner, under Congested Districts Board Act, who may either retain the proceeding before himself or may refer the same to such other Commissioner as he may direct.

3. The Commissioner before whom the proceeding is pending may require the production of such deeds and documents as shall appear to him necessary, and may give such directions as to service of notice or otherwise, as the case may require, and may, if and when satisfied that his requisitions have been complied with and directions carried out, make an Order granting the application of the Board either absolutely or subject to such conditions as he may embody in the Order.

4. Unless where herein otherwise expressly provided, all further proceedings consequent upon any such Order shall be had and taken in the like manner, and subject to the like rules of procedure as are prescribed by the Rules for the time being in force under the Land Purchase Acts in relation to proceedings thereunder in the case of an advance made to a tenant for the purchase of his holding.

5. If and when a Final Order directs that an advance shall be made, the Commissioner may—

(*a*) Pay the amount of such advance to the person or persons entitled thereto; or,

(*b*) If he deem it expedient so to dc, and the case so requires, pay the advance into the Bank of Ireland to such credit as he may direct, and make such further orders, and with the like consequences, as in the case of an advance made to a tenant for the purchase of his holding.

6. Where the application is for the apportionment of impropriate tithe rent-charges, quit or Crown rents, rents, fees, duties, services, rent-charges, or annuities, and is grounded on a Consent or Consents embodying the information necessary for making up the Order, the Commissioner, if satisfied that the Consent or Consents have been signed by or on behalf of all necessary parties, may, if he think fit, dispense with the lodgment of a statement of facts, and may thereupon make a Final Order for apportionment in the terms of such Consent or Consents. But, save as aforesaid, all such apportionments shall be carried into effect in accordance with the practice prescribed by the Rules for the time being in force under the Land Purchase Acts.*

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* As to the apportionment of quit rents, see Sect. 61, Act 1903, *ante* p. 129; and see Quit Rent Rules of 17th October 1903, *post* p. 319.

As to apportionment of superior interests where indemnities exist, see Sect. 62, Act 1903, *ante* p. 132.

7. As soon as any charge or burden for the discharge of which an Order for advance has been made has been paid off, or an Order for the apportionment or redemption of any superior interest which appears as a burden on the Land Certificate has been made, the Board shall cause the necessary steps for the amendment of the Register to be taken.

8. All Notices, Orders, and other documents shall be entitled in the same manner as the Request and Undertaking.

9. The Rules under the Land Purchase Acts, dated the 16th March 1897, shall apply, *mutatis mutandis*, in any case not sufficiently provided for by these Rules.*

R. E. MEREDITH.
T. J. LYNCH.
(Seal of the Irish Land Commission.) FREDK. WRENCH.
GERALD FITZGERALD.
MURROUGH O'BRIEN.

APPENDIX.

REQUEST AND UNDERTAKING.

Court of the Irish Land Commission.

Land Purchase Acts and the Congested Districts Board (Ireland) Act, 1899, Section 2.

Record No.

In the Matter of the Estate of the Congested Districts Board, formerly the Estate of A. B.

And in the Matter of [a Fee-farm Rent of £ , payable thereout; *or* a mortgage for £ , charged thereon: *or as the case may be*].

1. The Congested Districts Board, in the month of 1 , purchased the above estate for the benefit of the Congested Districts County of by means of an advance of £ Guaranteed Land Stock made by the Irish Land Commission, pursuant to the Land Law (Ireland) Act, 1896, Section 43.

2. The lands of in the Barony of and County of form part of the said estate (*or* the said estate consists of the lands of, &c.). The said lands are subject to [the

* See Rules of 16th March 1897, *post* p. 369.

following charge, that is to say, mortgage dated the day of , 1 , and made between &c. to secure the sum of , with interest, in respect of which there is now due the sum of £ for principal, together with interest thereon, from the day of last, [or the following superior interest, that is to say, rent of £ created by Indenture, dated, &c. *If the superior interest also affects other lands not comprised in this estate the fact should be mentioned.*]

3. The said charge (or superior interest) appears as a burden on the Land Certificate folio No. . The (registered) owner thereof being D. E. of [or as the case may be]. In the case of superior interest where the owner thereof is not registered, say "Reputed."

4. The Congested Districts Board request the Irish Land Commission [to direct that a sum of Guaranteed Land Stock * equivalent at the price of the day to £ be advanced and disposed of in discharging the said incumbrance or to exercise their powers for the redemption, or for the apportionment and redemption of the said superior interest] [or as the case may be].

5. The amount of the proposed advances taken together with all the previous advances made to the Board on account of the said Congested Districts County and not written off does not exceed the limit prescribed by the said Section 43, or the limit as fixed by the Treasury under Section 4 of the Congested Districts Board (Ireland) Act, 1899.

6. The Congested Districts Board undertake for the payment of any costs which the Land Commission may award to any person in connection with this application or the proceedings consequent thereon, and in such manner as the Land Commission may direct.

(Signed),
Secretary to the Congested Districts Board.

REGULATION AMENDING REGULATIONS OF 18TH SEPTEMBER 1896.

9TH DAY OF JANUARY 1901.

It is this day ordered, pursuant to the provisions of the 23rd Section of the Land Law (Ireland) Act, 1896, that Order III. of the Regulations made in pursuance of the said Section, and dated

* Advances are now made in cash; see Sect. 27, Act 1903, *ante* p. 88.

18th September 1896, be amended by omitting clause (*b*) of Rule 1, and by omitting Rule 2.*

IN THE HIGH COURT OF JUSTICE IN IRELAND.

Chancery Division—Land Judges.

Rules of 10th January 1902.

Additional Rules regulating the procedure before the Land Judges.

In pursuance of Section 7 of the Supreme Court of Judicature Act (Ireland), 1877, We, the Right Honourable Edward Baron Ashbourne, Lord High Chancellor of Ireland, and the Honourable John Ross, a Land Judge of the Chancery Division of the High Court of Justice in Ireland, do hereby order and direct that, in addition to the several General Rules and Orders regulating the procedure before the Land Judges of the Chancery Division of the High Court of Justice in Ireland now in force, the following additional Rules and Orders shall forthwith come into force, and take effect and be applicable to proceedings before the Land Judge of the said Chancery Division, whether now pending or hereafter to be commenced.

Dated this 10th day of January 1902.

Ashbourne, *C.*
John Ross.

1. In the case of an Estate comprising holdings which are agricultural or pastoral, or partly agricultural and partly pastoral, the Judge may dispense with the Consolidated Final Notice to Tenants and adjoining Owners and Occupiers, required by the 24th General Order of 15th July 1859, and may dispense with the settlement of the rental required by the 25th General Order of the 15th July 1859, altogether, or to such an extent as he shall think right.

2. In all such cases the Examiner shall, so far as possible, ascertain what are the superior interests to which the estate is liable, and the names of the reputed owners thereof, and what rights of indemnity (if any) exist as against other lands.

3. As soon as the Examiners' rulings have been issued, the Solicitor having carriage shall obtain an order for survey as hereto-

* See Order III. of Rules of 18th September 1896, *ante* p. 265.

fore, and the Surveyor shall be required, if necessary, to report upon sub-lettings and sub-divisions, and such other matters as the Examiner may direct.

4. The Solicitor having carriage of the proceedings shall then prepare a notice in Form X. in the Schedule to these Rules annexed, and shall serve it, with a copy of the Ordnance Survey Map, on the owners and occupiers of all lands adjoining the estate.

5. If any objections to the above notice shall be filed they shall be brought before the Judge for adjudication, in the same manner and on notice to the same parties as the existing General Orders prescribe with regard to objections to the Consolidated Final Notice to Tenants and adjoining Owners and Occupiers.

6. As soon as possible after receiving the Survey and Report thereon, the Solicitor having carriage of the sale shall prepare and have settled by the Examiner a Schedule of tenancies. This Schedule shall contain the same particulars as are now supplied in a Rental, with the addition of a column showing (if possible) the tenement valuation of each holding.

In case it appears from the said Report or otherwise that disputes exist as between the tenants themselves, or as between the tenants and the estate, the Solicitor having carriage shall divide the Schedule into two parts—Part I. for cases in which no disputes arise, and Part II. for cases in which such disputes as aforesaid exist.

7. In case the Solicitor having carriage is unable to prepare a Schedule of tenancies from documents, from information supplied by Agents or Receivers, or otherwise, he shall prepare a notice in the form in the Schedule hereto annexed, marked Y, and shall cause such notice to be served upon or circulated among the tenants on the estate.

8. On receiving the Returns to the said notice, in cases where such notices have been served, the Solicitor having carriage of the proceedings shall check the same with the Report of the Ordnance Survey Department, and, if there is a Receiver over the Estate, with the Receiver's last account before preparing the Schedule of tenancies.

9. When the Schedule of tenancies has been prepared and settled by the Examiner, the matter shall be brought before the Judge in Court on notice to the owner, to all persons who have entered appearances in the matter, to all reputed owners of Superior Interests, and to the Crown, where there is a reversion in the Crown; and thereupon the Judge, on hearing the parties and considering the evidence, may direct that negotiations shall be entered upon as between the parties interested and the tenants with a view to

Sales under the Land Purchase Acts, and that the Solicitor having carriage of the proceedings may arrange with the tenants for procurement of proposals to purchase and applications to the Irish Land Commission for advances. Such proposals and applications shall be in a form to be approved of by the Irish Land Commission.

10. When such proposals and applications for advances have been procured, they shall be lodged with the Irish Land Commission, accompanied by the order of the Judge above referred to, and an attested copy of the Schedule of tenancies and such other documents as the Land Commission shall require.

11. When the Irish Land Commission shall have notified their sanction of the advances applied for, the matter shall be entered in the Judges' Chamber List, on notice to the same persons as prescribed by Rule 9, for consideration of such proposals and for their acceptance, if approved of.

12. If, on the hearing aforesaid, any person whose interest is affected objects to the acceptance of such proposals, the Solicitor having carriage of the sale shall proceed to settle and serve the Consolidated Final Notice to Tenants and adjoining Owners and Occupiers, and to have a Rental settled as prescribed by the existing General Orders. If, in consequence of an unreasonable objection, the Estate incurs loss, the Judge may make such order in respect of the costs of the parties as may seem to him to be just.

13. In any case in which a Consolidated Final Notice to Tenants and adjoining Owners and Occupiers has been actually served before these Rules come into operation, the settlement of the Rental shall be proceeded with in the manner prescribed by the existing General Orders.

SCHEDULE REFERRED TO IN THE FOREGOING RULES.

Form X.

Notice to Owners and Occupiers of adjoining Lands.

In the Matter of the Estate of

, *Owner;*

, *Petitioner.*

Notice is hereby given, that the Lands set forth in the Schedule hereto and delineated on the accompanying Map, have been ordered to be sold in this Matter, and will be sold by the Court, subject to

such rights of way and other rights and easements as shall at the date of such sale legally exist and affect the same.

If any person alleges that the Boundaries of the said Lands are incorrectly shown upon the accompanying Map, he must lodge his objection, in writing, in the Registrar's Office of the said Court, on or before the day of 19 , otherwise the said Map shall be treated as conclusive and binding upon all persons.

Such objection must be verified by affidavit entitled as above and sworn, if out of Dublin, before a Commissioner of Oaths.

Dated this day of .

Examiner.

[Seal.]

Solicitor having carriage of the Sale.

SCHEDULE OF LANDS ABOVE REFERRED TO.

FORM Y.

Notice to the Tenants.

In the High Court of Justice in Ireland, Chancery Division—
Land Judges.

Owner;
Petitioner.

The Tenants of the Owner on the lands mentioned in the Schedule hereto are required to take notice that a sale of the said lands has been ordered by the Court, and the several tenants are hereby required to furnish to me the particulars of their several tenancies on the accompanying form, and to forward the same to me not later than

Dated this day of 19 .

Solicitors having carriage.

Address

SCHEDULE OF LANDS ABOVE REFERRED TO.

N.B.—It is intended that the tenants shall have an opportunity to purchase under the Land Purchase Acts. Any omission to furnish the particulars required or any inaccuracy in filling up the form may deprive the tenant of the advantage of an early sale.

FORMS TO BE SERVED ON TENANTS TOGETHER WITH THE FOREGOING NOTICE.

IN THE HIGH COURT OF JUSTICE IN IRELAND,

CHANCERY DIVISION—LAND JUDGES.

In the Matter of the Estate of

Owner;
Petitioner.

SCHEDULE to be filled in by the Tenants on the above-mentioned Estate named in the accompanying Notice.

County .	Barony .		Electoral Division .	
Ordnance Survey Names of Townlands (each on a separate line).	Area Statute Measure of the Tenant's Holding.	Tenement Valuation.	Rent paid by Tenant.	Tenure of Tenant and Particulars of fixing of Rent if a judicial one. (*See* directions endorsed as to the filling in of this column.)
	A. R. P. Description of holding.	£ s. d.	£ s. d.	

The words in italics may be struck out unless the tenant is illiterate.

Signed by the tenant in the presence of [*the above-mentioned Notice and form having first been read and explained to him in my presence*]
Name, .
Address, .
Occupation, .

Signature of tenant, .
Postal address, .
Occupation or description, .

I, the before-named tenant, say as follows:—

1. That the particulars stated in the foregoing schedule are true, to the best of my knowledge and belief.

2. I have been in the occupation of the said holding and paying the rent therefor since the year 18 , and I hold the same as tenant, as in the said schedule is stated.

3. There is not any person in occupation of the said holding as tenant or otherwise save as mentioned in the following schedule:—

Names of the Persons in Occupation as Under-tenants or otherwise.	Area in Statute Measure.	Rent (if any) payable by such Occupiers.	When Payable.	Tenure or Nature of Occupancy.
	A. R. P.	£ *s.* *d.*		
* * *				

If there are no under-tenants, fill in the word "none" where marked ***

Directions to be Followed in Filling up the Foregoing Schedules.

Where the tenant has more than one holding on the estate, each should be separately described, and the sub-tenancies (if any) on each should be kept distinct.

The schedules should be neatly and accurately prepared, and if possible without any blanks.

In filling up the column headed "Tenure of Tenant," state whether the tenant holds under fee farm grant (giving date and parties), under lease or agreement in writing (giving date, parties, and term), under a tenancy from year to year, or how otherwise. If the rent be a judicial one, state on what date and how it was fixed.

RULES UNDER CONGESTED DISTRICTS BOARD (IRELAND) ACT, 1901.*

[24*th February* 1902.]

1. All applications under Section 1 of the Act † shall be heard at the ordinary sittings of the County Court for each division of the county.

2. Where the estate is situate within the jurisdiction of one County Court, the application shall be made in the division of the county in which the holding, the subject-matter of the application, is situate; but where the holding is on an estate which is situate within the jurisdiction of more than one County Court, the application shall be made in that county, and in that division of such county in which the greater part in rateable value of the estate is situate. The Judge may adjourn the case from one Division to another, and from one Sessions to another.

3. The application under Sub-section 3 of Section 1 of the Act shall be made by notice, which shall be in the Form No. 1 in the Schedule hereto, or to the like effect. The application under Sub-section 5 of Section 1 shall be made by notice, which shall be in the Form No. 2 in the Schedule hereto, or to the like effect.

4. Every notice under the last preceding rule shall be served fifteen clear days before the first day of the Sessions at which it is intended to have such application heard, and a copy thereof with the endorsement of the service thereof shall be lodged with the Clerk of the Peace at least ten clear days before such Sessions.

5. Subject to the provisions of Sub-section 9 of Section 1 of the Act, all notices and other proceedings under these Rules may be served by registered letter, or in any of the modes in which an ordinary Equity Civil Bill may be served. Provided, however, that such services need not be effected by a Civil Bill officer.

6. For the purpose of all applications and proceedings under Section 1 of the Act, the Congested Districts Board for Ireland may sue and be sued by that name. Notices and other proceedings requiring to be given or served to or on the Board may be given to, and served upon the Secretary.

* These Rules were issued as provisional Rules, but no final Rules appear to have been so far made.

† See Sect. 1 of the Congested Districts Board (Ireland) Act, 1901, *ante* p. 221; and see Sect. 12 (2) of the Act of 1903, *ante* p. 34.

7. The Clerk of the Peace shall keep a book, in which he shall enter each application under the Act, in the order in which it shall have been received by him, and of the particulars of each application and of the ruling of the Judge in each case.

8. Orders under Sub-sections 4 and 5 of Section 1 of the Act may be in one of the Forms, Nos. 3, 4, and 5 in the Schedule hereto, or to the like effect.

9. Every Order under the Act shall state whether it is made with or without costs, and in case it is made with costs, the exact sum payable for costs (including witnesses' expenses) shall be inserted therein.

10. The costs, including witnesses' expenses, as between party and party, shall be taxed by the Clerk of the Peace. Any person aggrieved by such taxation may appeal to the Judge, and have the costs reviewed by him.

11. Where not otherwise expressly provided by these Rules, the existing practice of the County Courts in Equity Cases shall apply to all applications under this Act.

12. A summons for witnesses shall be in the Form No. 101 in the Schedule to the County Court Rules of 1890, or to the like effect.

13. Non compliance with any of the foregoing Rules shall not render any proceedings void unless the Court shall so direct, but the proceedings may be set aside, either wholly or in part, or may be amended or otherwise dealt with in such manner and upon such terms as the Court may think just.

14. In the construction of these Rules and of the Forms thereto the term "the Act" means the Congested Districts Board (Ireland) Act, 1901, and the term "Court" means the County Court, and the term "Judge" means County Court Judge and includes Recorder, and the term "Clerk of the Peace" includes Clerk of the Crown and Peace when the offices are united, and the term "Sessions" means the sittings of the County Court.

SCHEDULE.

FORMS.

Form No. 1.

Form of Notice of Application to the County Court where the tenant is dissatisfied with his new holding.

In the County Court.

Congested Districts Board (Ireland) Act, 1901.

County of
Division of

A.B. *Applicant;*

The Congested Districts Board for Ireland, *Respondents.*

Whereas the Applicant is a tenant on an estate known as the estate in the County of . And whereas on the day of 19 the Respondents served on the Applicant such notice as is mentioned in Sub-section 1 of Section 1 of the Act determining the tenancy in his holding on the said estate as from the day of , which said notice contained an undertaking by the Respondents that they would *

* Here state the undertaking.

And whereas on the day of the Respondents served on the Applicant such notice as is mentioned in Sub-section 3 of Section 1 of the Act, stating that they were prepared forthwith to put him in possession of †

† Here state full particulars of the new holding.

And whereas the Applicant is dissatisfied with the said new holding,

Notice is hereby given that an application will be made by or on behalf of the Applicant to the County Court, at the Sessions, to be held on the day of next at in and for the Division of in the County of for an Order that the Respondents shall pay the Applicant the sum of £ as compensation for the inferiority in value of the said new holding, and ‡ for an Order

‡ State here whether "in addition" or "as an alternative."

that the Respondents do erect on the said new holdings §

§ State the buildings (if any) required to be erected.

and do make the following improvements ‖

‖ State the improvements (if any) required to be made.

or for such other Order as the Court may think fit to make.

Dated this day of , 190

To *C. D.*,

Secretary of the Congested Districts Board for Ireland.

A. B., Applicant.

Solicitor for Applicant.

This notice to be signed by the Applicant or his Solicitor.

FORM No. 2.

Notice of Application to the County Court when the tenant refuses to enter into possession of the new holding.

In the County Court.

CONGESTED DISTRICTS BOARD (IRELAND) ACT, 1901.

County of
Division of

A.B. *Applicant;*
The Congested Districts Board for Ireland, *Respondents.*

Whereas the Applicant is a tenant on an estate known as the estate in the County of . And whereas on the day of 19 the Respondents served on the Applicant such notice as is mentioned in Sub-section 1 of Section 1 of the Act determining the tenancy in his holding on the said estate as from the day of , which said notice contained an undertaking by the Respondents that they would *

* Here state the undertaking.

And whereas on the day of the Respondents served on the Applicant such notice as is mentioned in Sub-section 3 of Section 1 of the Act, stating that they were prepared forthwith to put him in possession of †

† Here state full particulars of the new holding.

And whereas the Applicant refuses to enter into possession of the said new holding,

NOTICE is hereby given that an application will be made to the County Court at the Sessions to be held on the day of next at in and for the Division of and County of for an Order that the Respondents shall pay to the applicant the sum of £ or such other sum as in the opinion of the Court is equal to the value of his interest in his former holding.

Dated this day of , 190 .

To *C. D.*,

Secretary of the Congested Districts Board for Ireland.

This notice to be signed by the Applicant or his Solicitor.

A. B., Applicant.

Solicitor for Applicant.

FORM NO. 3.

Form of Decree on Application under Sub-section 3 *of Section* 1.

CONGESTED DISTRICTS BOARD (IRELAND) ACT, 1901.

County of
Division of } By the County Court Judge.

A.B. of *Applicant;*
The Congested Districts Board for Ireland, *Respondents.*

It appearing to the Court that the Respondents have purchased an estate known as the estate in the County of And that the Applicant was at the time of the service of the notice hereinafter mentioned a tenant on the said estate,

And it further appearing that the tenants of holdings thereon to the extent of not less than three-fourths in number and rateable value having so requested the Respondents on the day of served on the applicant such notice as is mentioned in Sub-section 1 of Section 1 of the Act determining the tenancy in his holding as from the day of which said notice contained an undertaking by the Respondents that they would *

* Here state the undertaking.

And it further appearing that on the day of the Respondents served on the Applicant such notice as is mentioned in Sub-section 3 of Section 1 of the Act stating that they were prepared forthwith to put him in possession of †

† Here state full particulars of the new holding.

And it further appearing that the Applicant is dissatisfied with the said new holding. And it further appearing that the Applicant caused an application to be made to the Court pursuant to the provisions of the Congested Districts Board (Ireland) Act, 1901, at these present sittings ‡

‡ Here set out the application as in notice.

And it further appearing that the notice of such application was duly served on the Respondents and all other proper and necessary parties,

And the Court having duly examined into the matter of such application, doth hereby decide that the value of the said new holding is less than the value of the former holding of the Applicant in respect of §

§ State here in which of the particulars mentioned in Sub-section 1 the inferiority consists.

and having taken into account in connection with such inferiority in value the rent payable for the said new holding and every circumstance which the Court considered material, It is Ordered and Decreed that ‖

‖ Here state (1) amount of compensation (if any) awarded; (2) particular of buildings (if any) to be erected; (3) particulars of improvements (if any) to be made as may be ordered.

And it is further Ordered that the Respondents do pay to the Applicant (the sum of £ , awarded as compensation as aforesaid, together with) ¶ the sum of £ for costs and expenses of witnesses.

¶ If compensation not awarded, omit portion in brackets.

Dated at this day of in the year one thousand nine hundred and .

	£	s.	d.
Compensation, . .			
Costs, ...			
Witnesses' Expenses,			
Total, . . .			

County Court Judge for the said County.

Clerk of the Crown and Peace for the said County.

Solicitor for Applicant or Applicant in person.

FORM No. 4.

Form of Decree on Application under Sub-section 5 of Section 1.

CONGESTED DISTRICTS BOARD (IRELAND) ACT, 1901.

County of
Division of } By the County Court Judge.

A.B. of
Applicant;
The Congested Districts Board for Ireland, *Respondents.*

It appearing to the Court that the Respondents have purchased an estate known as the estate in the County of

And that the Applicant was at the time of the service of the notice hereinafter mentioned a tenant on the said estate. And it further appearing that the tenants of holdings thereon to the extent of not less than three-fourths in number and rateable value having so requested, the Respondents on the day of served on the Applicant such notice as is mentioned in Sub-section 1 of Section 1 of the Act determining the tenancy in his holding as from the day of , which said notice contained an undertaking by the Respondents that they would *

* Here state the undertaking.

And it further appearing that on the day of the Respondents served on the Applicant such notice as is mentioned in Sub-section 3 of Section 1 of the Act, stating that they were prepared forthwith to put him in possession of †

† Here state full particulars of the new holding.

And it further appearing that the Applicant refuses to enter into possession of the said new holding, And it further appearing that the Applicant caused an application to be made to the Court pursuant to the provisions of the Congested Districts Board (Ireland) Act, 1901, at these present sittings, claiming to be paid the sum of £ or such other sum as in the opinion of the Court was equal to the value of his interest in his former holding, And it further appearing that the notice of such application was duly served on the Respondents and all other proper and necessary parties.

And the Court having duly examined into the matter of such application, and being of opinion that the sum of £ is equal to the value of the interest of the Applicant in his former holding,

It is therefore Ordered and Decreed by the Court that the Respondents do pay to the Applicant the said sum of £ , together with the sum of £ , for costs and expenses of witnesses.

Dated at the day of one thousand nine hundred and .

	£	s.	d.
Value of former holding,			
Costs, ...			
Witnesses' Expenses, .			
Total, ...			

County Court Judge for the said County.

Clerk of the Crown and Peace for the said County.

Solicitor for Applicant or Applicant in person.

FORM No. 5.

Form of Dismiss of Application under Sub-section 3 *of Section* 1.

CONGESTED DISTRICTS BOARD (IRELAND) ACT, 1901.

County of
Division of } By the County Court Judge.

A.B. of
Applicant;

The Congested Districts Board for Ireland, *Respondents.*

It appearing to the Court that the Respondents have purchased an estate known as the estate in the County of

And that the Applicant was at the time of the service of the notice, hereinafter mentioned, a tenant on the said estate, And it further appearing that the tenants of holdings thereon to the extent of not less than three-fourths in number and rateable value, having so requested the Respondents on the day of served on the Applicant such notice as is mentioned in Sub-section 1 of Section 1 of the Act determining the tenancy in his holding as

from the day of which said notice contained an undertaking by the Respondents that they would *

* Here state the undertaking.

And it further appearing that on the day of the Respondents served on the Applicant such notice as is mentioned in Sub-section 3 of Section 1 of the Act, stating that they were prepared forthwith to put him in possession of †

† Here state full particulars of the new holding.

And it further Appearing that the Applicant is dissatisfied with the said new holding. And it further appearing that the Applicant caused an application to be made to the Court pursuant to the provisions of the Congested Districts Board (Ireland) Act, 1901, claiming ‡
and that the Applicant has failed to prove his said claim or any part thereof.

‡ Here set out application as in notice.

It is therefore Ordered and Decreed by the Court that the said application be and the same is hereby dismissed costs §

§ "With" or "without" as the case may be.

‖ (And it is further Ordered that the Respondents do recover against the Applicant the sum of £ , for costs and expenses of witnesses, and the several Sheriffs in Ireland are hereby commanded to take in execution the goods of the Applicant *A. B.*, to satisfy the said costs and expenses.)

‖ If the application is dismissed without costs, omit portions within brackets.

Dated at this day of one thousand nine hundred and

	£	s.	d.
Witnesses' Expenses,			
Costs, ...			
Total, . . .			

County Court Judge for the said County.

Clerk of the Crown and Peace for the said County.

Solicitor for Applicant or Applicant in person.

RULES, DATED OCTOBER 17, 1903, FOR CARRYING INTO EFFECT THE PROVISIONS OF SECTION 61 OF THE IRISH LAND ACT, 1903,* MADE IN PURSUANCE OF THE SAID SECTION, BY THE COMMISSIONER OF WOODS, TO WHOM THE MANAGEMENT AND DIRECTION OF THE LAND REVENUES OF THE CROWN IN IRELAND HAVE BEEN ASSIGNED BY ORDER OF THE COMMISSIONERS OF HIS MAJESTY'S TREASURY, WITH THE APPROVAL OF THE LORD CHANCELLOR, THE LAND JUDGE, AND THE JUDICIAL COMMISSIONER.

1903. No. 894.

The following Rules shall come into force and take effect as from the 1st November 1903:—

I.

Construction of Terms.

In these Rules, "the Commissioner of Woods" means the Commissioner for the time being, to whom the management and direction of the Land Revenues of the Crown in Ireland have been assigned by the Commissioners of His Majesty's Treasury, in pursuance of the Crown Lands Act, 1851.†

II.

1. Applications for the Apportionment or Exclusive Charge of Quit or other perpetual rents, payable to the Crown, shall be made to the Commissioner of Woods, at the Quit Rent Office, Dublin, as soon as can be conveniently done after the issue of the Quit Rent Certificate. It shall be the duty of the Vendor or the Solicitor having carriage of the proceedings to furnish such consents, evidence, and documents as may be required for such Apportionment or Exclusive Charge.

2. Where such application is based on a Consent or Consents, signed by or on behalf of the persons on whose lands it is proposed to apportion or exclusively charge such rents, the Commissioner of Woods may make the Apportionment or Exclusive Charge forthwith.

3. Where no Consents are produced, the Commissioner of Woods may give notice of the proposed Apportionment or Exclusive Charge

* See that Section, *ante* p. 129.

† 14 & 15 Vict. c. 42.

to all persons appearing to him to be interested, and on the expiration of fourteen days from the giving of such notices, he may proceed to make the Apportionment or Exclusive Charge, provided no notice of objection has been lodged, as next hereinafter mentioned.

4. Any person receiving notice as aforesaid, and objecting to the proposed Apportionment or Exclusive Charge shall, within fourteen days of the service of such notice, serve the Commissioner of Woods with notice of objection, stating the grounds on which such objection is based. If the Commissioner of Woods considers that the objection is frivolous, or discloses no sufficient grounds for remitting the Apportionment or Exclusive Charge to the Land Judge or Judicial Commissioner, he may proceed as if no objection had been lodged. Where the notice of objection raises a substantial question of law, or other question of difficulty which involves a hearing in Court, or otherwise, the Commissioner of Woods shall transmit the application and objection to the Registrar of the Land Judge or the Judicial Commissioner, as the case may be, together with a report thereon; and the Vendor or his Solicitor shall thereupon take such steps as the Land Judge or Judicial Commissioner may direct for the determination of the case.

5. A copy (certified by the Officer in charge of the Quit Rent Office) of the Certificate issued under Sub-section (5) of the said 61st Section shall be delivered to the Applicant or his Solicitors free of charge.

6. All notices for the Commissioner of Woods shall be served at the Quit Rent Office, Dublin, and any notice proceeding from the Commissioner of Woods may be given on behalf of such Commissioner by the Officer for the time being in charge of the Quit Rent Office. Such notices may be sent by registered letter through the post.

Dated the Seventeenth day of October 1903.

E. Stafford Howard.

Approved :—

Ashbourne, *C.*
John Ross.
R. E. Meredith.

General Orders, dated November 7, 1903, for Framing Lists of Assessors under Section 89 of the Irish Land Act, 1903.*

1903. No. 1117.

I, William Humble, Earl of Dudley, Lord Lieutenant-General and General Governor of Ireland, hereby approve of the following General Orders.

Dudley.

Dublin Castle.

We, the undersigned, being two of the Commissioners of His Majesty's Treasury, hereby approve of the following General Orders.

Austin Chamberlain.
Arthur James Balfour.

Irish Land Commission.

Assessors.

General Orders made by the Judicial Commissioners, with the approval of the Lord Lieutenant and the Treasury, pursuant to Section 89 of the Irish Land Act, 1903.

(1) The Judicial Commissioners (with the approval of the Lord Lieutenant and the Treasury) shall frame a list of persons of skill and experience in agriculture especially qualified to act as lay Assessors under Part III. of the Irish Land Act, 1903, and such list shall be published in the Dublin Gazette.

(2) The said list may be revised from time to time as occasion shall require by the Judicial Commissioners, with the approval of the Lord Lieutenant and the Treasury, by the framing of another list, and every such further list shall be published in the same manner as the original list, and shall supersede from the date of the publication thereof the last preceding list.

(3) Each person named on the said original list, or on any revised list, shall be qualified to act as an Assessor under Part III. of the said Act, so long as his name remains on any such list for the time being in force, and shall (as he may from time to time be directed by the Judicial Commissioners) give his attendance and assistance

* See that Section, *ante* p. 154.

upon appeals and re-hearings. He shall hear the evidence, and, for the purpose of aiding the Judicial Commissioner before whom a case is heard in hearing and determining the same, shall, to the best of his skill, experience, and ability, answer any question which may be put to him by the Judicial Commissioner relative to any question arising upon the facts of the case, and shall, upon application of either of the parties, or, if so directed by the Judicial Commissioner, inspect the holding and report thereon to the Judicial Commissioner in Form A with such variations as the circumstances of the case may require and the Judicial Commissioner may direct. Every such Assessor shall also give such attendance in Dublin or elsewhere as the Judicial Commissioner shall require for the purpose of preparing Reports, Maps, or other office work in connection with appeals and re-hearings.

(4) Each person named upon the original or upon any revised list of Assessors shall, so long as his name remains on any such list, receive as remuneration a sum calculated at the rate of £800 per annum, with a special allowance at the rate of £200 per annum for daily subsistence allowance. Persons holding warrants as permanent Assistant Commissioners named in the list attached hereto or who may be placed on any subsequent list of Assessors shall not thereby lose the rights (if any) to pension or otherwise which they would have had or would continue to have if they had not been placed on said list and had continued to act as Assistant Commissioners, but for the purposes of calculating pensions £600 per annum only shall be taken into account.

The salaries of Assistant Commissioners shall not be payable so long as they remain on the list of Assessors.

Dated the 7th day of November 1903.

R. E. Meredith.
Gerald FitzGerald.

APPEALS AND RE-HEARINGS.

FORM A.

IRISH LAND COMMISSION.

ASSESSOR'S REPORT.

The Assessor having heard the evidence is to report upon the holding by answering such of the following Queries as the Judicial Commissioner may direct.

IRISH LAND ACT, 1903.

County Record No. Landlord

No. of Ordnance Sheet Tenant

Date upon which holding inspected day of 190 .

Who attended Inspection on behalf of Landlord? . . } Who attended on behalf of Tenant? . . . }

NOTE.—If the Assessor considers the answers to Queries Nos. 1 or 2 in the Schedule of the Sub-Commission or County Court to be sufficient and correct, he may state upon this Report that he concurs with them, without giving any further answers to the corresponding queries herein.

1. Give a concise description of the holding and the buildings thereon, stating particulars of aspect, elevation, water supply, situation as to markets, railways and county roads, &c. Also state how the holding is used, *i.e.* as a tillage farm or as a mixed farm or as a grazing or dairy farm; if mainly a grazing or dairy farm, state carrying power.

2. Is the holding suitably used? What is the present condition of the holding as to cultivation, and of the holding and the buildings thereon, as to deterioration or otherwise? If there be deterioration, state how it is shown and has apparently been caused, and give like particulars as to any improved condition.

3. State whether particulars of Tenement Valuation, Rates, &c., set forth in paragraph 3 of the Recorded Schedule are correct, or if not, state correct particulars.

4. State the annual sum which should be the fair rent of the holding on the assumption that all improvements thereon (including Buildings) were made or acquired by the landlord, and give details of Valuation.

Description of the several classes of land with the quantities of each class set out separately, giving the rate per acre. The several classes of grass

and tillage land to be so specified that it may be apparent how much of each description is contained in the holding; each class separately valued to be marked with a letter to correspond with a letter on the map, and the boundaries of such class to be indicated on the map.

Letter on Map.	Description of Land.	Area in Statute Measure.			* Rate per Acre, excluding buildings.	TOTAL.		
		A.	R.	P.		£	s.	d.
	Total area				Total, £			
Specify any additions for buildings, and for mountain grazing, turbary outside holding, right of seaweed, or any other rights or privileges, or for proximity, if same have not already been taken into consideration in the rate per acre.					Total, £			
Specify any deductions for special outgoings affecting the holding or for inconvenience of access, insufficient water supply, or other disadvantages, if same have not already been taken into consideration in the rate per acre.								
Annual Sum which in the opinion of the Assessor should be the fair rent of the holding on the assumption above stated.					£			

* The rate per acre to be estimated on the basis of the Tenant paying (1) in respect of any part of the holding in a Rural District a total rate equivalent to the standard amount of County Cess and Poor Rate as set out in the recorded schedule or in paragraph 3 as the case may be, less by the amount of benefit to the Landlord from the Agricultural Grant in respect of the Poor Rate; (2) and in respect of any part of the holding in an Urban District the whole of the Poor Rate except such deduction from rent (if any) as he may be entitled to make under Section 53 of the Local Government (Ireland) Act, 1898.

5. State the improvements on holding made wholly or partly by, or at the cost of, or acquired by, the Landlord.

6. State the improvements on the holding made wholly or partly by the tenant, or at his cost.

Nature and Character of each such Improvement.	Present Capital Value.	Increased letting value due thereto.	Date when made as near as can be ascertained.	Extent (if any) to which the Landlord has paid or compensated the Tenant in respect of each such Improvement.	Deduction from the Rent on account of each such Improvement.
Total deduction for improvements . . £					

7. State here the answer to any special question referred to the Assessor by the Judicial Commissioner, and also such other facts and circumstances (if any) as may be required to enable the Judicial Commissioner to form a Judgment as to the subject-matter of this report.

8. Estimated Fair Rent of the Holding, £ .

Dated this day of 190 .

Signature of Assessor . .

IRISH LAND COMMISSION.

THE IRISH LAND ACT, 1903.

Rule dated the 4th December 1903, under Section 23, Sub-section 2, of the Irish Land Act, 1903.*

It is this day ordered by the Judicial Commissioner that any application under Section 23, Sub-section (2) of the Irish Land Act, 1903, to the High Court or any Judge thereof shall be made within one month from the date of the refusal of the Estates Commissioners to refer the question of law sought to be referred, unless the time hereinbefore prescribed shall on special grounds be extended by Order of the Judicial Commissioner.

Signed,

Irish Land Commission, Dublin. R. E. MEREDITH.

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* See that Section, *ante* p. 75.

STATUTORY RULES AND ORDERS, 1904.

No. 548.

LANDLORD AND TENANT, IRELAND.

Congested Districts.

Rules, dated March 25, 1904, under Section 79 (1) of the Irish Land Act, 1903.*

We, William Humble, Earl of Dudley, Lord Lieutenant-General and General Governor of Ireland, in exercise of the powers in Section 79 of the Irish Land Act, 1903, and of every other power enabling Us, do hereby, and without prejudice to any further exercise of the said powers, make the following Rules.

Dudley.

Dublin Castle,
25*th March* 1904.

Congested Districts Board.

Rules under Section 79 (1) of the Irish Land Act, 1903.

1. In these Rules the expression "Board" means "the Congested Districts Board." The expression "the Act" means the "Irish Land Act, 1903." The expression "The Estates Commissioners" shall have the same meaning as in the Act.

2. When the Board propose to purchase an Estate under the Irish Land Act, 1903, proceedings shall be commenced by an Originating Request in Form B[1] in the Appendix hereto, with such variation as the nature of the case may require, and shall be accompanied by a Map or Maps as hereinafter prescribed.

3. Originating Requests shall be verified by the Affidavit of the Vendor or Vendors, or, if the Board shall permit, of the Vendor's Land Agent or Solicitor, who shall state his means of knowledge, and why the Statement is verified by him and not by the Vendor, and such requests shall be on post paper bookwise.

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* See that Section, *ante* p. 151.

4. Each Originating Request shall be endorsed with the name and registered place of business of the Vendor's Solicitor, with an Address within the municipal boundary of the City of Dublin where notices, orders and other documents may be sent to him; or, if no such Solicitor is employed, with an address where notices, orders and other documents may be sent to the Vendor.

5. Except with the authority of the Land Judge no Originating Request shall be received by the Board comprising any land in respect of which proceedings for sale or declaration of Title are pending before the Land Judge.

6. Originating Requests shall be lodged in the Office of the Board.

MAPS, ETC.

7. With every Originating Request the Vendor shall lodge:

A certificate of the Tenement Valuation of all the lands Vendor proposes to sell, obtained from the Office of the Commissioner of Valuation and Boundary Surveyor, and also Ordnance Maps on the six-inch scale, of these lands classified, and shown in distinctive colours, as follows:—

(i.) The lands held under permanent tenancies *coloured blue.*

(ii.) Lands held under Agistment or other temporary lettings *coloured red.*

(iii.) The Demesne and parcels of land which the Vendor desires to sell and *not* repurchase *coloured green.*

(iv.) The Demesne and parcels of land which the Vendor desires to sell and repurchase *coloured yellow.*

Maps shall be prepared and furnished by Townlands or groups of Townlands, and shall not exceed 40 inches by 30 inches in size, unless when a slight increase of this size would avoid the preparation of an additional map; and in every case the names of the adjoining Townlands shall be shown upon the map.

Every such map shall be accompanied by

(v.) A Schedule of Areas of the lands as above classified, furnished in Form D[1], or in such other form as the Board may from time to time direct.

(vi.) An Affidavit by a competent surveyor stating that deponent visited the lands and examined the maps upon the ground, that the classification of the lands is correctly shown on said maps, and that the schedule of areas of same is correct. Such affidavit shall also specify any ancient monument

within the meaning of Section 14 of the Act which may be on the Estate.

(vii.) A Rental on Form C^1 of the lands coloured *blue* and *red* on said maps, verified by affidavit of the Vendor or his Agent.

(viii.) When so requested by the Board the Vendor shall furnish particulars on Schedule D^2 of any lands of which he is owner, not offered for sale, and which are situate in the same or adjoining County or Counties as the lands which are offered for sale.

8. Any resolution adopted by the Board with reference to the proposed purchase shall state the price which, on the Vendor's proposal, the Board have provisionally agreed to pay for the Estate provided the lands are vested in the Board in fee simple, discharged of superior interests, save as provided in said Act, and also the terms, as to arrears of rent, payment of interest and otherwise, and the conditions (if any) upon which it is proposed that the Vendor may repurchase the Demesne or other lands from the Board; and shall also specify any condition as to compensation or allowance for any error in the Rental, to be assessed by the Judicial Commissioner on the distribution of the purchase money.

9. The Board shall forthwith transmit such Declaration with the Originating Request, the Maps, and copy Resolution to the Office of the Estates Commissioners, in which Office they shall be marked with a Record Number indicating the order in which the same have been received having regard to Originating Applications and Requests already lodged, and the proper officer of the Estates Commissioners shall notify the Vendor or his Solicitor or Agent that the said Declaration, Resolution and Originating Request have been lodged, and thereupon Rules Numbers 14 to 17 inclusive of the Rules of the Estates Commissioners of the 23rd October 1903, with regard to "Primâ facie evidence of title" shall apply.*

10. If it appears to the Estates Commissioners that the Vendor may be dealt with as the owner of the land for the purposes provided for in Section 17 of the said Act they shall notify the Board to that effect and *proceed to prepare the Agreement.* The date to be specified for "closing day" in such agreement and the date for the order consequential thereon vesting the land in the Trustees of the Board shall be so specified and arranged by the Estates Commissioners after communication with the Board and the Vendor.

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* See those Rules, pp. 483 and 484 *post.*

PURCHASE BY THE BOARD OF DEMESNES, OR OTHER LANDS.

11. The time within which the Vendor shall signify to the Board that he agrees to repurchase any Demesne or other land shall be one month from the date of the notification to him of the Resolution by the Board of the terms upon which they propose to purchase such estate and to resell such Demesne or other lands to him, and if within the said month the Vendor does not notify to the Board that he accepts the terms aforesaid he shall be deemed to have refused to repurchase such Demesne or other land.

12. The time within which any person entitled in remainder or reversion to any land resold to the Vendor shall apply to the Judicial Commissioner that the lands so resold shall devolve in accordance with the terms of a Settlement shall be six months from the date of such re-sale.

13. For the purpose of the purchase by the Board of an Estate from the Land Judge, Rule 25 of the said Rules of the Estates Commissioners shall apply, with the substitution of the Board for the Land Commission.*

14. Rules 29 and 30 of the said Rules with reference to Orders Vesting land in the Land Commission shall apply to Orders proposed to be made to vest land in the Trustees of the Board.*

15. With reference to Regulations as to Turbary on Estates purchased by the Board, Rules 36 and 37 of the said Rules with such substitution shall similarly apply.*

Form B[1].

CONGESTED DISTRICTS BOARD.

Originating Request.

Estate of *A.B.*, in the Congested County of .

I, *A.B.*, of hereby make oath and say as follows :—

Omit any portions of this form which are not applicable to the facts of the case.

1. I am within the meaning of the 17th Section of the Irish Land Act, 1903, a person having power to sell the estate and lands, particulars of which are set forth in the First Schedule hereunto annexed, which estate and lands are described in the Maps lodged herewith.

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* See those Rules, pp. 485, 487, and 488 *post*.

2. For not less than six years immediately preceding this Request I *

* Or, I and my immediate predecessor in title C.D. of.

have been personally, or by an Agent, in receipt of the rents and profits of the said estate and lands.

If this is not the case the Vendor must state clearly to whom the rents and profits have been paid during the period in question.

3. The particulars of so much of the demesne and other lands in my occupation as I am (not) desirous of repurchasing from the Board with the Acreage and Tenement Valuation of same are set out in the First Schedule.

4. I apply to the Board that the said Estate may be declared by them fit to be regarded as a separate Estate for the purposes of such Sale.

5. As *primâ facie* evidence of my power to sell the said Estate and lands, I refer to the deeds and other documents specified in the Second Schedule hereunto annexed.

6. The said Estate and lands are held by the tenure mentioned in the said First Schedule and are subject to the superior interests therein referred to.

7. I am the owner of other lands, situate in the same County or Counties as those offered for sale, which I do not propose to sell to the Board, particulars of such lands are given on Schedule D[2].

8. I am the absolute Owner of the said Estate and lands,

or I am the Owner as tenant for life of the said Estate and lands under a Settlement or Will dated and *C.D.* of and *E.F.* of are Trustees for the purposes of the Settled Land Acts of the said Settlement or Will, or there are no trustees for the purposes of the Settled Land Acts.

or We are Trustees for Sale of the said Estate and lands under Settlement dated .

or We are Trustees with a power of Sale of the said Estate and lands under Settlement dated .

or As the case may be.

9. I have set forth to the best of my knowledge and belief in the Third Schedule hereto the names and addresses of all persons interested in the said Estate and lands and short particulars of the nature of their interest or claims.

10. The particulars set forth in the accompanying Rental now produced to me and marked C[1] before swearing this Affidavit are true and correct in every particular to the best of my knowledge, information and belief.

See Form C[1].

11.

The Vendor should state here the facts as to Game rights, and how he proposes to deal with same, and the facts as to the mineral and water rights and ancient monuments.

12. There are not any proceedings pending in any Court in relation to the said lands or any part thereof save .

13. I propose to sell the said Estate and lands to the Board in fee simple discharged from the claims of all persons as specified in Section 16 of the Irish Land Act, 1903, but subject as therein mentioned for the sum of £ to be paid subject to the provisions of the said Act.

CONGESTED

Schedule

DENOMINATION.	LANDS PROPOSED					
	CLASS I.			CLASS II.		
County, Barony and Townlands.	Lands held under permanent tenancies—coloured BLUE on Map.			Lands held under Agistment, or other Temporary Lettings—coloured RED on Map.		
	Area.	Tenement Valuation.		Area.	Tenement Valuation.	
		Lands.	Buildings.		Lands.	Buildings.
	ac. r. p.	£ s. d.	£ s. d.	ac. r. p.	£ s. d.	£ s. d.
TOTAL ..						

N.B.—Only the total area and Tenement Valuation of each class in each

DISTRICTS BOARD.

I.

TO BE SOLD.											
CLASS III. Demesne and parcels of land which Vendor desires to sell and NOT repurchase—coloured GREEN on Map.			CLASS IV. Demesne and parcels of land which Vendor desires to sell and *repurchase*—coloured YELLOW on Map.			Total Area and Tenement Valuation of Lands in each Townland proposed to be sold.			Tenure by which the Estate and Lands are held and particulars of superior interests, and the names and addresses of the persons entitled thereto so far as known to the Vendor.
Area.	Tenement Valuation.		Area.	Tenement Valuation.		Area.	Tenement Valuation.		
	Lands.	Buildings.		Lands.	Buildings.		Lands.	Buildings.	
ac. r. p.	£ s. d.	£ s. d.	ac. r. p.	£ s. d.	£ s. d.	ac. r. p.	£ s. d.	£ s. d.	

townland need be given. Particulars of separate holdings are not required.

Schedule II.

Deeds or other Documents relied on as *primâ facie* Evidence of Title.*

Schedule III.

Names, &c., of Persons interested in the Estate and Lands other than Owners of Superior Interests mentioned in Schedule I.

Name.	Address.	Short Particulars of Interest or Claim.
	PART I. Persons interested in Remainder or as *cestui que trust*, &c. PART II. Incumbrancers, &c.	

* DIRECTIONS.—If an abstract of title has been prepared it may be utilised. If not, the Vendor should specify a Conveyance to him or his predecessor in title, and also the last Settlement or Will or other document showing extent and nature of the Vendor's interest; and if the Estate and Lands, or any portions thereof, are held under fee farm grant or lease the Vendor should specify same. The Vendor should also give evidence to establish the identity of the lands for sale with those mentioned in the title deeds.

If originals are not in the possession of the Vendor he should state in whose custody they are. Note Rule 15 of the Estates Commissioners' Provisional Rules of 23rd October 1903, as to obtaining an order for the production or lodgment of the originals.†

† See those Rules, *post* p. 483.

FORM C[1].

CONGESTED DISTRICTS BOARD.

Rental referred to in Schedule I. (Class I. and Class II.) of the Originating Request.

Estate of County

DENOMINATION. Barony. Townlands.	Name of Tenant.	Rental No. of Holding.	Rent and Tenure.			Amount of Arrears of Rent due up to Gale Day before the date of application of Request.	Gale Day.
			Annual Rent.	Tenure, stating whether rent has been fixed by Judicial Order or Agreement. If non-Judicial, state shortly particulars of contract of tenancy.	If Judicial Rent, give date of Order or of filing of Agreement; and state whether 1st or 2nd term Judicial Rent.		
			£ s. d.			£ s. d.	
		Total ..			Total ..		

I hereby certify the above Rental to be correct in every particular according to the best of my knowledge, information, and belief, and I hereby agree that if any error be discovered in the Rents as set out, or in the amount of Arrears due, the purchase price agreed upon may be adjusted by the Judicial Commissioner on the allocation of the Purchase Money.

Signature of Vendor

CONGESTED DISTRICTS BOARD. FORM D[1]

Schedule of Areas.

Reference to Maps prepared under Rule 7 (v.).

DENOMINATION. County, Barony, and Townlands.	CLASS I. Gross area of lands in each townland held under permanent tenancies—coloured BLUE on Map.	CLASS II. Gross area of lands in each townland held under Agistment or other Temporary Lettings—coloured RED on Map.	CLASS III. Gross area of Demesne and parcels of land in each townland which Vendor desires to sell and NOT repurchase—coloured GREEN on Map.	CLASS IV. Gross area of Demesne and parcels of land in each townland which Vendor desires to sell *and repurchase*—coloured YELLOW on Map.
	ac. r p.	ac. r. p.	ac. r. p.	ac. r. p.

AFFIDAVIT.

Pursuant to Rule 7 (vi.) of the Rules made pursuant to Section 79 (1) of the Irish Land Act, 1903, dated the day of 1904, I hereby make oath and say that the particulars set forth in the foregoing Schedule of Areas are correct in every particular according to the best of my knowledge, information, and belief; and that as required by said Rule, I have visited the lands mentioned in said Schedule, and have examined the Maps therein referred to upon the ground, and that the classification of the lands as set out in said Schedule is correctly shown on said Maps.

Signature of Surveyor (who should state his qualifications)

Sworn at in the County of
this day of 190 before me a
and I know Deponent.

CONGESTED DISTRICTS BOARD. FORM D².

Schedule referred to in Rule 7 (viii.).

Lands which Owner does not propose to sell.

DENOMINATION. County, Barony, and Townlands.	Gross Area and Poor Law Valuation of lands in each townland held under permanent tenancies.					Gross Area and Poor Law Valuation of lands in each townland in hands or held under Agistment or other Temporary Lettings.				
	ac.	r.	p.	£	s.	ac.	r.	p.	£	s.

I certify that the above particulars are correct,

Signature of Vendor

STATUTORY RULES AND ORDERS, 1904.
No. 634.

LANDLORD AND TENANT, IRELAND.
Land Law Acts.

Rules, dated April 23, 1904, made by the Judicial Commissioners of the Irish Land Commission with the Approval of the Lord Chancellor of Ireland, under Section 88 (5) of the Irish Land Act, 1903, in relation to Appeals under the Land Law Acts.*

I hereby approve of the following Rules:—

Ashbourne, *C.*

Irish Land Commission.

Whereas by the Irish Land Act, 1903, Section 88 (5), it is enacted that "Rules under Section fifty of the Act of 1881 may be made by the Judicial Commissioners, with the approval of the Lord Chancellor, with respect to the proceedings under this Section in appeals and re-hearings, and those Rules shall, among other things, provide for an *ad valorem* scale of fees to be paid on notices of appeal or re-hearing."

It is ordered by the Judicial Commissioners—with the approval of the Lord Chancellor—that until further order the following Rules shall take effect, and be in force in the Land Commission in relation to the proceedings under the said 88th Section in Appeals and re-hearings:—

1. In these Rules the expression "Appeal" shall include a re-hearing before the Land Commission—unless the context otherwise requires.

2. Rules 79, 81, 85, 88, and 89 of the General Rules of 2nd January, 1897, shall cease to be in force as regards appeals lodged after this date, but all other Rules under the Land Law Acts relating to appeals shall remain and be in force save so far as the same are inconsistent with the present Rules.

3. Any person aggrieved by any order of one Commissioner, not

* See Sect. 88 (5) of the Act of 1903, *ante* p. 154.

being a Judicial Commissioner, or by any order of a Sub-Commission, and who desires to have the case reheard, shall, within two months after the date of such order, serve on the opposite party a notice of appeal which may be in Form No. 71A, and thereupon shall, within ten days from the date of such service, transmit to the Land Commission the original notice of appeal duly stamped, which shall be endorsed with the time and mode of service on the opposite party, and such endorsement shall be signed by the person who effected such service.

4. Any person aggrieved by the decision of any Civil Bill Court as to any matter with respect to which an appeal lies to the Land Commission, and who desires to appeal therefrom, shall, within two months from the last day of the Land Sessions at which such decision shall have been made, serve notice of appeal on the opposite party, which may be in Form No. 72A, and thereupon shall, within ten days from the date of such service, lodge with the Clerk of the Peace the original notice of appeal duly stamped, together with a copy thereof, and both the original and the copy so lodged shall be endorsed with the time and mode of service on the opposite party, and such endorsement shall be signed by the person who effected such service.

5. Every notice of appeal shall state definitely whether the appeal is intended to be prosecuted upon the ground of a question of law or a question of value, as indicated in the forms of Notice, 71A and 72A in the Schedule hereto.

6. If either party desires to offer on the hearing of any appeal, or on any re-hearing, notice of which has been lodged after the commencement of the Irish Land Act, 1903, any evidence which could have been, but was not produced in the Court below, he shall—not later than one week before the date fixed for the hearing of the appeal—serve notice to that effect upon the opposite party, and upon the Land Commission. The notice shall state clearly the nature of the evidence proposed to be offered and the special grounds upon which it is sought to have it admitted.

7. If either party desires to offer such evidence, but has failed to serve the notice indicated in the preceding Rule or if in any event an application for adjournment is made, the Judicial Commissioner may adjourn the hearing of the appeal, and make such order as to the payment of costs as, in the opinion of the Judicial Commissioner, the justice of the case may require.

8. Every original Notice of Appeal shall, according to the amount of the annual rent issuing out of the holding prior to the date of the order appealed from, bear an impressed stamp or stamps of value as follows:—

		£	s.	d.
Where the rent does not exceed £5, ...	a stamp or stamps of	0	2	6
Where the rent exceeds £5, but does not exceed £10, ...	,, ,, ,,	0	5	0
Where the rent exceeds £10, but does not exceed £20, ...	,, ,, ,,	0	10	0
Where the rent exceeds £20, but does not exceed £50, ...	,, ,, ,,	1	0	0
Where the rent exceeds £50, but does not exceed £100, ...	,, ,, ,,	1	10	0
Where the rent exceeds £100,	,, ,, ,,	2	0	0

Dated this 23rd day of April, 1904.

Seal of the Irish Land Commission.

R. E. Meredith.

Gerald Fitzgerald.

Form No. 71A.

County

Record No.

LAND LAW ACTS.

PARTICULARS—(The following particulars must be accurately filled up).

Name of Landlord, and Residence of Landlord, if known, { _____ _____

Name and Residence of Landlord's Agent, if any, ... { _____ _____

Name and Residence of Tenant, { _____ _____

Post Office from which Tenant receives his Letters, ... { _____

HOLDING—

County.			District.*			Electoral Division.		
†Name by which Lands are known on Ordnance Survey Map.								
Area in Statute Measure.			Rent of Holding.			Tenement Valuation.		
A.	R.	P.	£	s.	d.	£	s.	d.

* Give name of District, and specify whether Rural or Urban. If Holding is Partly in a Rural and Partly in an Urban District, the respective Districts should be specified.

† This information can be obtained from the demand note for poor rate, or from the Clerk of the District Council.

NOTICE REQUIRING CASE TO BE REHEARD BEFORE THE LAND COMMISSION.

I am aggrieved by the order of [1]

made at on the

day of 190 , whereby it has [2]

and I require my case to be reheard before the Land Commission.

This notice of rehearing is intended to be prosecuted on the ground [3]

[4] that the rent fixed by the Sub-Commission ought to be [5]

Dated this day of 190

Signed,[6]

To.....

And the Secretary to the Land Commission.

1. State by whom order made, viz.: Sub-Commission or by single Commissioner.

2. State substance of order.

3. Here state definitely the ground or grounds of appeal intended to be relied on as a matter of law.

4. If the appeal is not taken on a question of value this paragraph should be struck out.

5. Increased or reduced as the case may be.

6. To be signed by the party requiring his case to be reheard, or by his Solicitor.

(The opposite party, whether landlord or tenant.)

N.B.—Where the appeal is from an order fixing a rent for a Second Statutory Term the Notice shall be headed "Second Statutory Term." The original of this form requires to be stamped with impressed stamp or stamps of value as follows—according to the amount of the annual rent issuing out of the holding prior to the date of the order appealed from :—

		£	s.	d.
Where the rent does not exceed £5	a stamp or stamps of	0	2	6
Where the rent exceeds £5, but does not exceed £10	,, ,,	0	5	0
Where the rent exceeds £10, but does not exceed £20	,, ,,	0	10	0
Where the rent exceeds £20, but does not exceed £50	,, ,,	1	0	0
Where the rent exceeds £50, but does not exceed £100	,, ,,	1	10	0
Where the rent exceeds £100	,, ,,	2	0	0

FORM No. 72A.

County

Record No.

LAND LAW ACTS.

PARTICULARS--(The following particulars must be accurately filled up).

Name of Landlord, and Residence of Landlord, if known, { _____ _____

Name and Residence of Landlord's Agent, if any, ... { _____ _____

Name and Residence of Tenant, { _____ _____

Post Office from which Tenant receives his Letters, ... { _____

HOLDING—

County.			District.*			Electoral Division.		
†Name by which Lands are known on Ordnance Survey Map.								
Area in Statute Measure.			Rent of Holding.			Tenement Valuation.		
A.	R.	P.	£	s.	d.	£	s.	d.

* Give name of District, and specify whether Rural or Urban. If Holding is Partly in a Rural and Partly in an Urban District, the respective Districts should be specified.

† This information can be obtained from the demand note for poor rate or from the Clerk of the District Council.

NOTICE OF APPEAL FROM CIVIL BILL COURT.

I am aggrieved by the Order of the Civil Bill Court of the County of made at on the day of 19 , whereby it has [1]

and I Appeal therefrom to the Land Commission.

This Appeal is intended to be prosecuted on the ground [2]

1. State substance of order

2. Here state definitely the ground or grounds of appeal intended to be relied on as a matter of law.

[3] that the rent fixed by the Civil Bill Court ought to be [4]

3. If the appeal is not taken on a question of value this paragraph should be struck out.

4. Increased or reduced as the case may be.

Dated this day of 190 .

Signed,[5]

5. To be signed by the appellant or by his Solicitor.

To *

* The opposite party, whether landlord or tenant.

And the Secretary of the Land Commission.

N.B.—Where the appeal is from an order fixing a rent for a Second Statutory Term the Notice shall be headed "Second Statutory Term." The original of this form requires to be stamped with impressed stamp or stamps of value as follows—according to the amount of the annual rent issuing out of the holding prior to the date of the order appealed from:—

		£	s.	d.
Where the rent does not exceed £5	a stamp or stamps of	0	2	6
Where the rent exceeds £5, but does not exceed £10	,, ,,	0	5	0
Where the rent exceeds £10, but does not exceed £20	,, ,,	0	10	0
Where the rent exceeds £20, but does not exceed £50	,, ,,	1	0	0
Where the rent exceeds £50, but does not exceed £100	,, ,,	1	10	0
Where the rent exceeds £100	,, ,,	2	0	0

STATUTORY RULES AND ORDERS, 1904.
No. 1747.

LANDLORD AND TENANT, IRELAND.
LAND PURCHASE ACTS.

THE PUBLIC TRUSTEE RULES, 1904, MADE BY THE LAND JUDGE AND THE LAND COMMISSION, DECEMBER 3, 1904, AND APPROVED BY THE LORD-LIEUTENANT, DECEMBER 5, 1904.

We, William Humble, Earl of Dudley, Lord Lieutenant-General and General Governor of Ireland, hereby approve of the following Rules:

DUDLEY.

Dublin Castle,
5th December 1904.

In pursuance of the provisions of Section 52, Sub-section 15 of the Irish Land Act, 1903,* the Land Judge and the Land Commission, with the approval of the Lord Lieutenant, hereby Order that the following Rules shall from and after the fifth day of December, 1904, and until further order, be in force in relation to all proceedings for the purpose of carrying into effect the provisions of Section 52 of the said Act, and for regulating the exercise of the powers and duties of the Public Trustee.

Short title.

1. These Rules may be cited as "The Public Trustee Rules 1904."

Definitions.

2. In these Rules "the Act" shall mean the Irish Land Act, 1903; "Land Commission" shall mean Irish Land Commission; "the Court" shall mean either the Land Judge of the Chancery Division of the High Court of Justice in Ireland, or the Land Commission, according as the purchase money of the lands sold under the Land Purchase Acts is distributed or has been distributed by a Land Judge or the Land Commission: "Tenant for life" shall include the person or persons for the time being beneficially entitled to the income arising from the trust property; "The Officer of the Court" shall mean (*a*) as regards trusts where the Public Trustee has been appointed trustee by the Land Judge, the Registrar of the Court of the Land Judge, and (*b*) as regards trusts where the Public Trustee has been appointed trustee by the Land Commission, the Registrar

* See that Sect., *ante* p. 112.

of the Land Commission; and "The Bank" shall mean the Bank of Ireland.

3. The Public Trustee shall have an office within the municipal boundary of the City of Dublin. Office to be in Dublin.

4. The Office of the Public Trustee shall be open for the dispatch of business on all days of the year, except Sundays and Bank Holidays, between the hours of 10 A.M. and 4 P.M. except on Saturdays, when the Office may be closed at the hour of 1 P.M. Office hours.

5. In the case of the illness or unavoidable absence of the Public Trustee, the Lord Lieutenant may, by Warrant under his hand, appoint some person to act as his Deputy for such purposes as may be specified in the Warrant, and the appointment of such Deputy shall forthwith be notified to the Secretary of the Bank. Appointment of Deputy.

6. The seal of the Public Trustee, when affixed to any document, shall in every case be attested by his signature or by that of his deputy appointed as aforesaid. Seal.

Appointment of the Public Trustee as Trustee of a Settlement.

7. An application to appoint the Public Trustee as trustee of a settlement under Sub-section (10) of Section 52 of the Act, may be made by any person having an interest in the property, the subject matter of such settlement, or a power either alone or jointly, with any other person to appoint new trustees thereof. If, pending the proceedings in any matter, it shall appear that there is no trustee of a settlement comprising lands which have been sold under the Land Purchase Acts, the Court, without any application made in that behalf, may appoint the Public Trustee to be trustee of the settlement. Application under s. 52, ss. 10.

8. Every application to appoint or substitute the Public Trustee as trustee of a settlement, shall be made to the Court by motion on notice. In the Irish Land Commission every application shall be assigned to a Judicial Commissioner or to a Judge exercising for the time being the jurisdiction of a Judicial Commissioner. Applications to appoint to be by motion on notice.

9. The notice, and all affidavits, consents, orders and other proceedings shall be entitled in the matter in which the settled land has been sold, and also in the matter of the settlement, as in Forms I. and IA. in the Appendix. Entitling of documents.

10. The persons to be served with notice of the application shall, in the first instance, be as follows:— Service of notice.

In the case of an application under Sub-section 10 of Section 52 of the Act, the tenant for life if not the applicant.

In the case of an application under Sub-section 11 of Section 52 of the Act, the Trustees.

In the case of an application under Sub-section 12 of Section 52 of the Act, the tenant for life.

No other person shall, in the first instance, be served, but the Court may give any directions it thinks fit, either dispensing with the service of notice on any person required to be served under this Rule, or requiring service of notice on any person not so required to be served.

Application to be supported by Affidavit.

11. The application shall be supported by an affidavit made by the applicant, which shall state concisely :—

(*a*) The particulars of the instrument or instruments constituting the settlement and of the trusts thereof,

(*b*) The particulars of the trust property,

(*c*) The names and addresses when known, of the persons entitled as beneficiaries next in remainder,

(*d*) If the application is by the tenant for life, the names and addresses of the existing trustees of the settlement (if any) [or of the person or persons (if any)]* having power to appoint new trustees of the settlement, and in other cases the name and address of the tenant for life,

(*e*) Particulars as to the persons who are in possession of the deeds, or other instruments, and documents constituting the settlement, or relating to the trust property,

(*f*) Any other matter on which the Court should be informed.

Limitation of Order.

12. The Court, when appointing or substituting the Public Trustee, as trustee of a settlement, may limit the scope of the order to the purchase money of land sold under the Land Purchase Acts or otherwise, as to the Court may seem fit.

Vesting Orders.

13. Every order of the Court which directs that trust property shall vest in, or be transferred or paid to the Public Trustee, shall have annexed thereto, as part thereof, a Schedule setting out in tabular form the particulars of such trust property.

Registered land.

14. In any case where the order of the Court vests registered land in the Public Trustee as trustee of a settlement, a certified copy of the order shall be by him transmitted to the registering authority under the Local Registration of Title (Ireland) Act, 1891, and the Public Trustee shall, thereupon, be registered on the Register in the proper column.

Trust property may be vested in Public Trustee jointly with others: Settled Land Acts.

15. Whenever it shall be expedient or necessary, the Court may vest the trust property or any part thereof in the Public Trustee jointly with any other person or persons and may also appoint the

* The words in square brackets were in the original draft rules, but by an oversight were left out of the sealed copy. It is believed that this copy will shortly be amended by inserting them.

Public Trustee and any other person or persons trustees of the settlement for the purposes of the Settled Land Acts, 1882 to 1890, so far as relates to the property settled or any part thereof.

Title deeds to be handed over to the Public Trustee.

16. When an order has been made appointing the Public Trustee sole trustee of a settlement, the instrument or instruments constituting such settlement, and all title deeds, certificates, and other documents which are evidence of the title of the Public Trustee to any of that Trust Property, or authenticated copies of any of the aforesaid documents, the originals of which are not forthcoming, shall, save so far as the Court may by the said Order or any future Order, otherwise direct, be handed over to the Public Trustee.

The Court may order the delivery of title deeds.

17. The Public Trustee may apply to the Court for an order upon any person having the custody of any document referred to in the last preceding rule, to hand such document over to the Public Trustee, and the Court may make such Order as to the custody of any such document or the conditions upon which the same is to be handed over and as to costs, as may be just.

Public Trustee to file statement of trust property in Court.

18. The Public Trustee must, unless in any case the Court shall declare that it is unnecessary, as soon as may be after his appointment, make out and file with the officer of the Court, a complete Statement of the Trust property, accompanied with an approximate estimate of the income and capital value of each item, and shall seal and sign the same. Every such statement shall contain a list of all deeds, documents of title, certificate and scrip connected with the trust and delivered to the Public Trustee. If any variation shall at any time be made in the trust property, or any part thereof, or in any investment representing the same, or any part thereof, the Public Trustee shall forthwith file with the officer of the Court a Supplemental Statement giving particulars thereof.

Administration of Trust.

Accounts.

19. The Public Trustee shall open a separate account in the Bank in respect of each Trust Fund under his sole control, and shall pay all monies received by him in respect of any such trust fund into the Bank to such account.

Payments.

20. All payments by the Public Trustee in respect of Trust funds under his sole control, shall be made by Drafts upon the Bank signed by him and countersigned by an Official to be nominated by the Treasury.

Ledger accounts to be kept.

21. The Public Trustee shall keep, in such form as may be directed by the Treasury, a separate ledger account in respect of each separate Trust property which shall show the particulars of the Trust property and of all dealings therewith.

Security of records, &c.

22. The ledgers of the Public Trustee shall be kept by him in the Office in a place of security where they shall be reasonably safe from loss or damage by fire or otherwise. All Certificates, Deeds, and other instruments and muniments of Title relating to Trust property vested in the Public Trustee as sole Trustee shall be deposited by the Public Trustee in the Bank.

Inspection of books and deeds.

23. Any person beneficially interested in any Trust property under the control of the Public Trustee, or any Solicitor, Accountant or Agent, duly authorised in writing by such person shall be given reasonable facilities for inspecting the ledger account of such Trust property and the Certificates, Deeds and Muniments of Title relating thereto.

Application by Public Trustee to Chancery Division as to administration of trust.

24. The Public Trustee may, in any case in which it is expedient, take all necessary steps for obtaining the opinion of a Judge of the Chancery Division of the High Court of Justice under Order LV. of the Rules of the Supreme Court, Ireland, or otherwise, as to any question arising in the administration of the Trust.

Application to Court as to administration of trust.

25. If any person desires to bring any matter connected with the administration of the Trust under the notice of the Court, he may apply for the purpose by motion on notice according to the course of the Court entitled in the matter in which the settled land has been sold, and also in the matter of the settlement, and shall serve the same on the Public Trustee by sending it to him through the Notice Office of the Court

No other person shall, in the first instance be served with such notice, but at the hearing the Court may require any other person to be served therewith and may make such order thereon, as it deems fit.

Securities in name of Public Trustee to be dealt with only under Order of the Court, unless object of dealing recorded and countersigned.

26. Stocks, Shares, and Securities, vested in or standing in the sole name of the Public Trustee shall not be dealt with or transferred by him, save with the sanction of the Court, unless the object of such dealing or transfer is recorded in a Minute and any transfer pursuant to the same is countersigned by the official mentioned in Rule 20.

A copy of this Rule shall be sent through the post by the Public Trustee, to the Bank, and to the Secretary of every Company, Corporation or other Public Body, in whose Stocks, Debentures or Shares any part of the Trust property is invested, immediately after the same has been transferred into his name.

Standing order for payment of income.

27. Any payment on account of the income of the Trust property may be provided for by means of a standing order under the seal of the Public Trustee countersigned by the official mentioned in Rule 20 directed to the Bank, or to any Corporation, Company or other Public

Body, in whose Stocks, Debentures or Shares, the trust property or any part thereof, may for the time being be invested.

Stockbrokers of Supreme Court to act for Public Trustee.

28. The Stockbrokers for the time being appointed by the Lord Chancellor to carry out the investment of funds under the control of the Supreme Court of Judicature in Ireland, shall be Stockbrokers to the Public Trustee; and such Stockbrokers shall discharge their duties in such order or rotation, as the Land Judge and Land Commission may from time to time direct.

Payment of price and transfer of stock.

29. Whenever the Public Trustee shall direct the purchase of Stock or Securities with money standing to the account of any trust the price shall not be paid to the broker until the transfer into the name of the Public Trustee of stock or securities equal in value to the money to be invested deducting commission, shall be completed and whenever the Public Trustee shall order the sale of any stock or securities standing to the account of any trust the same shall not be transferred until the broker shall have paid to the Public Trustee the price thereof, deducting his Commission.

Control and Audit.

30. The Public Trustee shall, as regards the method of keeping his books and accounts, and regulating the expenses of his Office, conform to any directions whether given on special occasions or by general rule, or otherwise, which may from time to time be given by the Treasury.

31. The Accounts of the Public Trustee shall be audited at such times and in such manner as the Treasury may from time to time direct.

32. The Public Trustee shall be allowed, on the audit of his accounts, deductions made on account of costs or expenses properly payable out of the Trust Property.

Estimate of Financial Effect of Sale.

33. The Public Trustee shall, on the request of any person proposing to sell an Estate under the Land Purchase Acts, give an estimate of the probable financial effect of such sale.

3rd December, 1904.

Seal of the Irish Land Commission.

John Ross,
Land Judge.

APPENDIX

Form 1.

In the High Court of Justice in Ireland, Chancery Division.—Land Judges.

Land Purchase Acts.

In the Matter of the Estate of A.B.

Owner,

Ex parte

C.D.

Petitioner.

And in the Matter of a Settlement made by (an Indenture dated the day or , and made between, &c., or the Will of E.F.), dated the day of *or otherwise, as the case may be.*

Form 2.

Court of the Irish Land Commission.

Land Purchase Acts.

Record No.

In the Matter of the Estate of A.B.

A Vendor of Land.

And in the Matter of a Settlement made by, &c. (as before).

GENERAL ORDER

Under the Lunacy Regulation (Ireland) Act, 1871.

Dated 8th day of February 1905.

I, the Right Honourable Edward Baron Ashbourne, Lord High Chancellor of Ireland, pursuant to the powers vested in me by the Lunacy Regulation (Ireland) Act, 1871, and to all other powers and authorities enabling me in this behalf, do hereby order and direct that when for the purposes of the Irish Land Purchase Acts the Judicial Commissioner shall appoint a Guardian of a proposed tenant purchaser on the ground that such tenant purchaser is of unsound mind, and it shall appear that the entire property of the said tenant purchaser does not exceed the sum of £200 in value as to the corpus thereof, or the sum of £10 as to the annual income thereof, such Guardian shall be at liberty to lodge in the Office of the Registrar in Lunacy the order so appointing him, together with copies of the affidavits upon which such order was made, and thereupon and upon evidence that personal notice of the application has been given to the person alleged to be of unsound mind, the said Registrar shall submit the documents so lodged to the Lord Chancellor, with a view to the making of such order under the provisions of the 68th Section of the Act aforesaid as his Lordship may consider expedient.

ASHBOURNE, *C.*

ORDER LIV., C.

Questions of Law arising under the Land Purchase Acts.

1. Any application under Section 23, Sub-section 2, of the Irish Land Act, 1903, shall be made by motion on notice within the time prescribed for such application by the Judicial Commissioner. Such notice shall specify definitely the nature of the question which it is desired to have referred to a Judicial Commissioner, and a copy of such notice shall be lodged with the Estates Commissioners at least four clear days before the hearing.

2. Every transfer from the Land Commission to the High Court of the determination of any question of law under Section 71 of the Irish Land Act, 1903, shall be made by an order of the Judicial Commissioner which shall contain in a Schedule signed by the Registrar of the Land Commission a concise statement of the question of law to be determined.

3. When any such transfer is made with the consent of the Lord Chancellor, such consent shall be testified by an endorsement on the order of transfer signed by the Lord Chancellor.

4. The person on whose application any such transfer shall have been made, or (if not so made) the person whom the Judicial Commissioner shall direct, may apply, by motion on notice to the Division of the High Court or the Judge thereof to which or to whom such transfer shall have been assigned, to have the question of law determined. Such notice shall be served in the first instance on the person or one of the persons whose rights and interests are sought to be affected.

5. Every notice of motion under the Rules of this Order shall be intituled in the Matter of the Estate in which the question sought to be referred or determined arises and in the Matter of the Irish Land Act, 1903, and where service is necessary shall be served four clear days before the hearing thereof unless the person served shall consent to a shorter time or the Court or a Judge shall otherwise order.

6. In every case the Court or a Judge may direct any persons other than those who may have been already served to be served with the notice of motion.

7. A certified copy of the order made by the Court or a Judge on any application under the Rules of this Order shall be transmitted by the Registrar or other proper officer to the Registrar of the Land Commission.

RULES AND REGULATIONS, DATED APRIL 14, 1905, MADE BY THE TREASURY UNDER SECTION 41 OF THE IRISH LAND ACT, 1903 (3 EDW. 7, C. 37).

Statutory Rules and Orders, 1905. No. 392.

The Lords Commissioners of His Majesty's Treasury, in pursuance of the powers conferred by Section 41 and other Sections of the Irish Land Act, 1903, and of every other power enabling them in this behalf, hereby, without prejudice to any further exercise of the said powers, make the following Rules and Regulations:—

LAND PURCHASE ACCOUNT NO. 2.

Accounts.

1.—(1.) The Land Commission shall keep in their books a general account to be called the "Land Purchase Account No. 2," through which shall be passed all cash received and paid by the Land Commission under the Irish Land Act, 1903, except the income arising from investments of money paid into the Bank of Ireland under Section 24; and also the necessary subsidiary accounts for distinguishing the transactions of the Land Commission, the Estates Commissioners, and the Congested Districts Board. Accounts.

(2.) The Land Commission shall also keep in their books separate accounts of the sums advanced to them for the purchase of land and of congested estates; and a separate account of each purchase annuity in respect of advances in pursuance of agreements entered into after the passing of the Irish Land Act, 1903.

2. On the first day of June and the first day of December in every year the Irish Land Commission shall make up the account showing the profit or loss on the whole of the congested estates purchased and resold up to date. Congested Estates. Section 44.

On the first occasion of the account showing a net loss, an annuity of $3\frac{1}{4}$ per cent. on the amount of such loss, within the limit fixed by Section 44 (2) of the Act, shall be set up and charged against the Vote for the Land Commission, the first payment of which annuity shall be made on the gale day next following.

When any subsequent account shows an increased or decreased net loss within the said limit, the annuity chargeable shall be increased or decreased accordingly.

Irish Land Purchase Fund.

Accounts.

Expenses of issue.

Section 28 (4).

3.—(1.) The expenses of issue to be provided out of any sums raised by means of the Stock shall include brokerage (if any), advertising, postage, remuneration to the Bank of England or Bank of Ireland for issuing the Stock, and such other sums as may, in the opinion of the Treasury, be properly charged against the capital sum received.

Premium and Discount.

Section 36 (9), (7).

(2.) The Stock shall be taken to be issued at a premium or a discount according as the sum raised by means of the stock, after providing for the expenses of issue, exceeds or is less than the nominal value of the Stock created.

Guarantee Fund.

Accounts.

Constituents of Cash portion.

Sections 38 and 40 (1).

4.—(1.) The Guarantee Fund shall be under the direction of the Treasury, who shall keep an account of the Cash portion of the Fund, showing separately the payments made thereto in respect of—

(*a.*) The Ireland development grant.

(*b.*) The death duty grant.

(*c.*) The agricultural grant.

(*d.*) The Exchequer contribution.

(2.) In the case of payments from the Guarantee Fund to the Ireland Development Grant Account, and the Local Taxation (Ireland) Account,

Charge on excess Stock.

Section 36 (6) and Section 38.

any advance which has been made to the Irish Land Purchase Fund from the Guarantee Fund for the purpose of making good any deficiency in respect of the issue of the Stock at a discount shall be deducted, first, from the Ireland development grant; secondly, from the death duty grant; thirdly, from the agricultural grant; and fourthly, from the Exchequer contribution;

Other charges.

and any advance for any other purpose shall, so far as not repaid, be deducted, first, from the death duty grant; secondly, from the agricultural grant; thirdly, from the Ireland development grant; and fourthly, from the Exchequer contribution.

Repayments of arrears.

(3.) Any advances to the Irish Land Purchase Fund in respect of arrears under Section 36 (4) of the Irish Land Act, 1903, shall be a debt from that fund to the Guarantee Fund, and be repayable

out of payments on account of arrears which are subsequently recovered by the Land Commission and by them paid into the Irish Land Purchase Fund.

(4.) Any advance to the Irish Land Purchase Fund for the purpose of paying the dividends on the Stock shall, so far as not required to make good a deficiency on the income account of that fund, be a debt from the Irish Land Purchase Fund to the Guarantee Fund, and be repayable out of the income which is subsequently received. **Repayments of advances for dividends.**

(5.) Where any advance is made to the Irish Land Purchase Fund out of the Guarantee Fund, any sum received from the Irish Land Purchase Fund for the repayment of that advance shall, save as provided by Rule 11, be credited in account so as to make good the sums used for such advance out of the funds and moneys hereinafter mentioned, and shall be so credited in the following order, namely, first, to the Reserve Fund; secondly, to the Exchequer contribution; thirdly, to the Ireland development grant; fourthly, to the agricultural grant; and fifthly, to the death duty grant. **Distribution of repayments.**

Cash Arrangements.

5.—(1.) On the last week-day before the first day of January and the first day of July in every year, there shall be paid by the National Debt Commissioners to the Bank of England or Bank of Ireland, as the case requires, from the Irish Land Purchase Fund, a sufficient sum to pay the dividends on the guaranteed $2\frac{3}{4}$ per cent. Stock which will become payable on the next dividend day. **Dividends.** **Section 28 (2) and Section 29 (1), (2).**

(2.) Five days previously to the first day of January and the first day of July in every year, if the cash standing to the credit of the Income Account of the Irish Land Purchase Fund is insufficient to pay the said dividends and interest, the National Debt Commissioners shall certify the same to the Treasury, who shall cause an advance to be made to the Irish Land Purchase Fund out of the cash standing to the credit of the Guarantee Fund, and if that is insufficient, out of the Consolidated Fund.

(3.) Any advance so made out of the Consolidated Fund shall be as soon as possible repaid from the Guarantee Fund.

(4.) Every sum so repaid and every sum advanced out of the Guarantee Fund shall, so far as not required to make good a deficiency on the income account of the Irish Land Purchase Fund, be repaid out of that fund.

6. Five days previously to the first day of June and first day of December in every year the National Debt Commissioners shall

Annuities chargeable on Guarantee Fund. Section 36 (6).

certify to the Treasury the amount of the half-yearly payments due from the Guarantee Fund in respect of Stock issued at a discount; and the Treasury shall cause the amount to be paid from that fund to the Irish Land Purchase Fund.

Payments to Irish Land Purchase Fund. Section 36 (1), (2), (3), (5).

7.—(1.) The annual payments to the National Debt Commissioners under Sub-sections (1), (2), and (3) of Section 36 of the Irish Land Act, 1903, shall be made by the Land Commission in half-yearly instalments on the twenty-first day of June and the twenty-second day of December in each year.

Provided that the Land Commission shall, so far as practicable, every day pay over to the Irish Land Purchase Fund at the Bank of England on account of such annual payments all money received by them on account of half-yearly payments from purchasers.

Payments in arrear. Section 36 (4).

(2.) On the thirty-first day of January and the thirty-first day of July in every year, the Irish Land Commission shall ascertain the amount of the said annual payments in arrear, and shall forthwith certify that amount to the National Debt Commissioners; and the Treasury, on being furnished with a certificate from the National Debt Commissioners of the amount so in arrear, shall cause an advance of such amount to be made to the Irish Land Purchase Fund out of the Guarantee Fund.

Application of recovered arrears.

(3.) All half-yearly payments due from purchasers which have not been received by the thirty-first day of January and thirty-first day of July immediately following the gale day on which they became due, and all half-yearly payments in respect of rents due before the thirty-first day of January and thirty-first day of July which have not been received by those dates shall be deemed to be arrears and as such shall (so far as required), when recovered, be paid, as soon as practicable, to the Irish Land Purchase Fund at the Bank of England, to be applied in reduction of the amount previously advanced from the Guarantee Fund, under the preceding Sub-section.

Accounts of National Debt Commissioners.

8. Accounts of the receipts and expenditure of the Irish Land Purchase Fund, both as regards capital and income, shall be made up to the thirty-first day of March in each year.

Advances from Reserve Fund.

9. If at any time the cash portion of the Guarantee Fund is insufficient to meet payments under these Rules, the Treasury may, if they think fit, direct an advance to be made temporarily out of the Reserve Fund to the Guarantee Fund, and such advance shall be as soon as possible repaid out of the Guarantee Fund, and until so repaid shall be a charge on the Guarantee Fund.

10.—(1.) On the seventeenth day of February in every year, and

at such other times (if any) as the Treasury may direct, there shall be paid from the Guarantee Fund—

Disposal of sums in Guarantee Fund available for distribution.

Section 38.

Section 36 (4), (6), and Section 29.

(*a*) to the Ireland Development Grant Account any cash then standing to the credit of the Ireland development grant except what is required for meeting any charge on the Guarantee Fund then accrued and payable out of the Grant;

(*b*) to the Local Taxation (Ireland) Account any cash then standing to the credit of the Guarantee Fund, except the Ireland development grant and what is required for meeting any charge on the Guarantee Fund then accrued;

and the Treasury, on making such payments, shall certify to the Lord Lieutenant the amounts paid in respect of the Ireland development grant, the death duty grant, the agricultural grant, and the Exchequer contribution respectively.

(2.) On or before the sixteenth day of February in each year the National Debt Commissioners shall certify to the Treasury for the year ending on the thirty-first day of January immediately preceding—

I. The amount chargeable to each county of the sum drawn from the Guarantee Fund in respect of purchasers' half-yearly payments in arrear.

II. The amount which each county shall have paid to the Guarantee Fund in respect of purchasers' half-yearly payments in arrear which have been recovered.

The amount assigned to each county under above Rules shall be the actual amount received from or paid to the Guarantee Fund in the year in respect of that county.

III. The amount, other than that in respect of purchasers' half-yearly payments in arrear, chargeable to each county of the sum drawn from the Guarantee Fund for the purpose of the Irish Land Purchase Fund.

IV. The amount which each county shall have repaid to the Guarantee Fund excluding the purchasers' half-yearly payments in arrear which have been recovered.

The amount assigned to each county under III. and IV. shall be ascertained by apportioning the total amount received from or paid to the Guarantee Fund in the year according to the amount of the advances outstanding in such county at the close of the preceding financial year.

(3.) On making the February payment from the Guarantee Fund above referred to, the Treasury shall send a copy of such certificate to the Lord Lieutenant.

Miscellaneous.

Guarantee Deposits.

Interest.

11.—(1.) Where an advance is made under "the Land Purchase Acts" of money provided by the Irish Land Act, 1903, and a portion of such advance is retained as a guarantee deposit, such guarantee deposit shall, until released or otherwise required by the Land Commission, remain undrawn from the Irish Land Purchase Fund, and interest at the rate of $2\frac{3}{4}$ per cent. on the amount of the deposit so undrawn shall be provided from the interest received in the purchasers' half-yearly payments over and above that payable to the Irish Land Purchase Fund on advances.

(2.) Where the guarantee deposit has been used to make good any arrear, and any sum in respect of such arrear which is subsequently received from the sale of the holding or otherwise, is repaid to the Guarantee Fund, one-half of that sum shall be restored to the guarantee deposit.

(3.) If in any other case any sum is repaid to the Guarantee Fund from the Irish Land Purchase Fund in discharge of a sum, the burden of which has been borne by the Guarantee Fund, the benefit of such sum shall be adjusted in accordance with Sub-section (4) of Section 6 of the Act of 1891, in accordance with the mode in which the burden of the original payment of that sum was borne.

Reserve Fund.

Regulation under Section 43 (3) as to Repayments to Reserve Fund.

12. For the purpose of ascertaining the amount repayable to the reserve fund, in respect of advances out of that fund for improvements, the following provisions shall apply:—

In the case of advances from the reserve fund for the improvement of land purchased by the Land Commission, an account shall be prepared by the Irish Land Commission for each estate when re-sold, showing on the one side the amount paid to the vendor for the land and the amount expended in improvements; and, on the other side, the amount for which the land has been sold. Should the latter sum be in excess of the amount paid to the vendor, such excess up to the limit of the amount expended on improvements shall be advanced from the Irish Land Purchase Fund and applied in repayment of the advance from the reserve fund.

Purchase Annuities.

13. The annuity payable under Sub-section 1 of Section 45 of the Irish Land Act, 1903, in respect of any advance under the Land Purchase Acts in pursuance of an agreement entered into after the passing of the Irish Land Act, 1903, shall be payable by equal half-yearly instalments on the first day of June and the first day of December in each year.

Annuities payable half-yearly. Section 45 (1).

If an advance is made on one of the said gale days the annuity shall commence on that gale day, and the first half-yearly instalment thereof shall accordingly be payable on the next succeeding gale day.

If the advance is not made on one of the said gale days, the annuity shall commence on the first gale day after the date of the advance, and the first half-yearly instalment thereof shall accordingly be payable on the next succeeding gale day, but there shall be payable on the first gale day after the date of the advance, interest on the advance at the rate of $2\frac{3}{4}$ per cent. per annum from the date of the advance.

14. For the purpose of adapting to the requirements of the Irish Land Act, 1903, the provisions of the Purchase of Land (Ireland) Amendment Act, 1889, and the Purchase of Land (Ireland) (No. 2) Act, 1901, the following provisions shall take effect :—

Annuities where new advances made for purchase of additional lands.

(1.) In the case of advances made after the passing of the Irish Land Act, 1903, for the purchase of additional land within the meaning of the said Acts of 1889 and 1901, the new annuity referred to in Sub-section 1 of Section 2 of the Act of 1901 shall be an annuity equal to the sum of the annuity which would be payable in respect of the new advance if there had been no original advance and of the annuity payable, at the date of the making of the new advance, in respect of the original advance.

(2.) The new annuity, when received by the Land Commission, shall—

(*a*) until the original advance is paid off, be treated as a mixed annuity consisting of two component parts, one part being the amount attributable to the new advance, and the other part being the amount attributable to the original advance, each part to be dealt with accordingly, as if it were a separate annuity; and

(*b*) when the original advance is paid off, shall, so far as not required for the payment of interest on the new advance, be applied as part of the sinking fund in respect of that advance.

(3.) The new annuity shall continue to be payable in full until the new as well as the original advance is paid off.

(4.) The new annuity shall be payable in equal half-yearly instalments on the gale days on which the original annuity was payable, and shall commence to run from the gale day next succeeding the date of the new advance, or, should the new advance be made on a gale day, from that day; but interest at the rate of $2\frac{3}{4}$ per cent. per annum on the amount of the new advance shall be payable from the date of the advance until the gale day on which the new annuity commences to run.

Accumulation and Redemption.

(Sections 45 and 46.)

15. For the purpose of ascertaining the amount repaid in respect of an advance made under the Irish Land Act, 1903, the following provisions shall apply:—

Accumulation.

(1.) The sinking fund portion of each instalment of annuity shall (until otherwise provided by Rule) be deemed to be accumulated at a rate of interest of $2\frac{3}{4}$ per cent. per annum by half-yearly rests.

Amount repaid.

(2.) The total amount accumulated at any date in accordance with this Rule shall be deemed to be the amount of the advance repaid up to that date.

When advance is redeemed.

16. The whole advance shall be deemed to have been repaid when the total amount accumulated in accordance with these Rules is equal to the amount of the advance.

Cancellation of Stock.

17. When the whole amount of an advance has been so repaid the Land Commission shall so certify to the National Debt Commissioners, who shall thereupon cause an equal nominal amount of the Stock held by them on the Irish Land Purchase Fund to be cancelled.

Accumulation table.

18. The National Debt Commissioners shall furnish the Irish Land Commission from time to time with a table showing the amount to which a sinking fund of £1 will have accumulated in accordance with these Rules at each successive gale day.

19. For the purpose of ascertaining the amount to be paid to redeem a purchase annuity under the Irish Land Act, 1903, the following provisions shall apply:—

Requisite amount of Stock.

(1.) The requisite amount of Stock referred to in Section 46 of the Act shall be deemed to be the Stock that would have to be issued, at the average net price of the total Stock already created for advances to date of redemption, to provide the amount of the advance.

(2.) The amount required to purchase this Stock at the price at the date of redemption and to provide any additional interest (not covered by the price of the Stock) which may have accrued since the last preceding gale day, less the amount of the accumulated sinking fund to date of redemption, shall be the redemption money. Redemption Money.

The date of redemption shall be the date on which the application to redeem is received by the Land Commission, provided that the redemption money is lodged within seven days of such date.

In the case of a redemption before the first gale day following the advance, interest from the date of the advance to the date of redemption shall be provided.

(3.) A part of a purchase annuity shall be redeemable on similar terms, the part of the annuity redeemed bearing the same ratio to the total annuity as the redemption money to be lodged bears to the total redemption money. Partial redemption.

20. In cancelling the requisite amount of Stock, an amount equal to that of the advance redeemed shall be written off from the Stock held in respect of tenant purchasers' repayments, and the balance from the Stock held in respect of the repayments from the Guarantee Fund, and the respective amounts of the Stock outstanding shall be reduced accordingly. Stock to be cancelled.

21. On each occasion of an issue of the Stock created for advances, the National Debt Commissioners shall notify to the Irish Land Commission the average net price at which the whole of such Stock has been issued up to date. Average price of Stock.

22. The redemption of any tithe rent-charge or head rent by means of a transfer of Guaranteed Land Stock referred to in Section 17 of the Purchase of Land (Ireland) Act, 1891, shall not apply to transactions under the Irish Land Act, 1903. Tithe rent-charge.

Audit of Accounts.

23. The accounts of the Irish Land Commission under the Irish Land Act, 1903, shall be audited by the Comptroller and Auditor-General. Audit of Accounts. Section 35 (2).

Land Purchase Aid Fund.

24.—(1.) The amount required to be provided by Parliament to pay the dividends and sinking fund on Stock issued for the purposes of the Land Purchase Aid Fund shall be paid out of the Vote for the Land Commission. Dividends and Sinking Fund. Section 47.

(2.) Interest received in respect of the temporary investment of any balance standing to the credit of the Land Purchase Aid Fund shall be applied in reduction of the amount to be provided by Parliament to pay the dividends on the Stock.

(3.) Five days previously to the first day of June and first day of December in every year the National Debt Commissioners shall certify to the Land Commission the amount of the half-yearly payment in respect of sinking fund on all Stock issued and outstanding at that date, and the amount required, after allowing for interest received under the preceding Sub-section, to pay the dividends falling due on the first day of the succeeding month.

Estates Commissioners.

Re-sale of Estates.

25.—(1.) In the case of an estate purchased by the Estates Commissioners under the Irish Land Act, 1903, an advance to a tenant or other purchaser from the Land Commissioner shall be written off the amount outstanding for advances to the Estates Commissioners as from the date of the advance to such purchaser.

(2.) On the re-sale of an estate all cash payments, made by purchasers from the Land Commission in full or part payment of the purchase money payable by them, shall forthwith be paid over by the Land Commission to the Irish Land Purchase Fund in redemption of an equal amount of the original advance to the Estates Commissioners then outstanding.

Congested Districts Board.

Re-sale of Estates.

26. Where the Land Commission make an advance to a tenant for the purchase of his holding from the Congested Districts Board, the following provisions shall apply:—

(1.) In the case of an estate purchased by the Congested Districts Board under the Land Law (Ireland) Act, 1896, for the benefit of any county, notice of such proposed advance shall be given to the Congested Districts Board and, if a corresponding amount of the advances to the Congested Districts Board outstanding on account of the same county be redeemed within seven days of such notice, the amount shall be paid to that Board. Failing such redemption, the advance shall be written off the debt due from the Board for advances made to them on account of that county.

(2.) In the case of an estate purchased by the Congested Districts Board under the Irish Land Act, 1903, an advance to a

tenant for the purchase of his holding or to a vendor for the re-purchase of a portion of an estate from the Congested Districts Board shall be written off the debt due from the Board for advances made to them on account of such estate.

(3.) On the re-sale of an estate all cash payments, made by purchasers from the Congested Districts Board in full or part payment of the purchase money payable by them, shall forthwith be paid over by the Congested Districts Board through the medium of the Land Commission to the Irish Land Purchase Fund in redemption of an equal amount of the original advance then outstanding.

Payments to Land Commission.

27. Interest on all sums advanced to the Congested Districts Board shall commence to accrue from the date on which the cash is placed to the credit of the Board, or paid by the Land Commission on their account, and shall continue to accrue from day to day on the total amount of the advance outstanding, after allowing for the amount realised on re-sales, until the whole of the advances have been repaid.

Interest shall be payable to the Land Commission on the first day of June and first day of December in every year.

The payment of sinking fund in respect of land remaining in the hands of the Congested Districts Board for more than five years shall commence to accrue from the first gale day after the fifth anniversary of the advance, or on the fifth anniversary should that be a gale day, and the first half-yearly instalment thereof shall be payable on the next succeeding gale day.

Payments to Congested Districts Board for Improvements.

28. For the purpose of ascertaining the amount payable to the Congested Districts Board in respect of estates purchased and re-sold under the Irish Land Act, 1903, at an enhanced price consequent on improvements or otherwise, a separate account shall be kept of each estate purchased by the Congested Districts Board. When parcels of an estate have been sold to an amount corresponding to the amount advanced from the Irish Land Purchase Fund, the further advances in respect of any additional parcels of land on the estate shall be paid to the Congested Districts Board by the Land Commission.

Returns.

29. The Land Commission shall forthwith inform the Treasury whenever it appears that the amount advanced in any county is approaching the limit of advances in that county.

30. The Land Commission shall supply the National Debt Commissioners with such information as will enable the National Debt

Commissioners to perform their duties under these Rules, and shall be responsible for the accuracy of the information so supplied.

Calculation of Time.

31. In counting days for the purposes of these Rules, Sundays and Bank Holidays shall be excluded, and if the day on which anything is directed to be done falls on a Sunday or a Bank Holiday, the same shall be done on the next following day.

Definitions.

32. In these Rules, unless the context otherwise requires—

The expression "purchasers' half-yearly payments" means the instalments of annuities or interest on advances payable on a gale day.

The expression "the Stock" means "Guaranteed $2\frac{3}{4}$ per cent. Stock."

Other expressions have the same meaning as in the Irish Land Act, 1903.

The Interpretation Act, 1889, applies to the interpretation of these Rules as it applies to the interpretation of an Act of Parliament.

H. W. Forster,
Balcarres.

Treasury Chambers,
Whitehall,
14th April 1905.

REGULATIONS MADE BY THE LORD LIEUTENANT UNDER SECTION (23) (8) OF THE IRISH LAND ACT, 1903.*

DUDLEY.

1. Subject to the provisions of Regulation 2 the Estates Commissioners shall, so far as reasonably practicable, so arrange the dates and times of their offers to the Land Judge under Section 7 of the Irish Land Act, 1903 (in these Regulations referred to as "the Act"), and of their entering into agreements to purchase estates and untenanted land, and so regulate the investigation of *primâ facie* titles, the duties of their Inspectors, and their business generally, that vendors of land to persons other than the Land Commission shall not be placed at a disadvantage in reference to the date of the advance of the purchase money (having regard to the dates when the proceedings for sale in such cases respectively commenced) as compared with the vendors of land selling the same under the provisions of Sections 6, 7, or 8 of the Act as the case may be, and that no vendor or class of vendors shall be given any undue preference over any other vendor or class of vendors.

Provided that the Estates Commissioners may, by order made on special grounds to be stated therein, postpone or accelerate the dealing with any particular estate or untenanted land.

In any such case they shall, within six days from the making thereof, send copies of such order to the Lord Lieutenant, to the vendor of the land, and to the solicitors having carriage of the proceedings for sale.

2. In every case in which an application is made to the Estates Commissioners for the definition of an estate, or for the purchase by them, or the sale by them, of any estate or parcel of land, or for any advance of money under the Act either for any such purchase or sale or for the benefit or improvement of any land, or to have any request made under Section 7 of the Act, they shall inquire whether any intimidation has been exercised, directly or indirectly, in reference to or in connection with such application or the subject matter thereof or the estate or land affected thereby, and should it be found that such intimidation has been so exercised they shall, by order, postpone such application until all pending applications of a similar nature or character in connection with which no such intimidation shall have been so exercised, have been disposed of.

* These Regulations are cancelled by the Regulations of 13th February 1906, *post* p. 560.

Provided always that the Estates Commissioners may by order made on special grounds, to be stated therein, accelerate the hearing of any application so postponed, and proceed to deal with it notwithstanding that all the applications so pending as aforesaid in reference to which no intimidation shall have been exercised, shall not have been disposed of. A copy of every order postponing or accelerating the hearing of any such application as aforesaid shall be furnished to the Lord Lieutenant within six days from the making thereof, and, if applied for, to any of the persons interested therein, or affected thereby.

3. Having regard to the provisions of Sections 2, 4, and 8 of the Act, and of the enactments repealed by the Act, untenanted lands when purchased by the Estates Commissioners, whether they form part of an estate sold or have been acquired under the provisions of Section 8, should be utilised for the enlargement of the uneconomic holdings of agricultural or pastoral tenants, or for providing lands for the persons or for the purposes described in Sections 2 and 4 of the Act, and not for the purpose of creating tenancies for the benefit of, or making allotments to, persons other than those described in the said last-mentioned sections.

(*a*) The Estates Commissioners should only consider the question of providing a holding for a tenant evicted from any holding comprised in an estate, upon the sale of that estate, and where there is untenanted land available for such purpose either comprised in an estate or acquired by the Commissioners under Section 8 of the Act.

(*b*) In considering the said last-mentioned question preference and special consideration should be given to those cases in which the tenancy was lost, not owing to inefficiency or negligence on the part of the former tenant, but in consequence of some general rent dispute.

4. (*a*) Where a parcel of land is sold under Section 2 to a person not being in possession of any other land, the parcel should, so far as reasonably practicable, be of sufficient size and fertility to enable the purchaser, if he manages and cultivates it properly, to maintain himself and his family on its produce, not only at the time of the sale, but, so far as can be reasonably anticipated, in the future. When a parcel of land is so sold to a person being in possession of other land this regulation shall apply with the substitution for the parcel sold under Section 2 of the total amount of land in his possession after he has been put into possession of the parcel sold under Section 2.

* These Regulations are cancelled by the Regulations of 13th February 1906. *post* p. 560.

(*b*) A parcel of land shall not be sold to any person until the Estates Commissioners are reasonably satisfied of his competence to work it as a holding, and that he purposes to do so, and not to sell or assign it.

(*c*) In selecting purchasers for new allotments of parcels of untenanted land regard should be had to the farming experience, habits of industry, and the means of assistance at the command of the applicants, so that, if possible, those persons shall be chosen who are most likely to succeed in the new conditions in which they will be placed.

5. The Reserve Fund referred to in Section 43 of the Act is limited in amount, and, therefore, no portion of it should be applied for the purposes of improvements, however desirable, for which purchasers are in a position to borrow from the Board of Works under the Land Improvements Acts, but rather for improvements of a kind which are necessary in order to render holdings when sold economic, as indicated in Regulation 4 (*a*).

(*a*) Under Sections 12 and 43 (1) of the Act, the money advanced to the Estates Commissioners may be used by them for making loans to purchasers, repayable to them by the borrowers which, when repaid, are to be restored by the Commissioners to the Reserve Fund.

(*b*) Advances by way of grant should only be made on the certificate of the Inspector that the improvement is necessary, and that the occupier could not repay an improvement loan without injury to the security for the purchase annuity.

6. When a question of law is referred by the Estates Commissioners to the Judicial Commissioner, in the event of any Estates Commissioner dissenting from the form of the reference agreed to by the majority of the Commissioners, the dissenting Commissioner shall furnish the Judicial Commissioner with a note setting forth the reasons of his dissent.

7. The interest payable under Section 38 of the Act, in cases of direct sales, shall be put in collection forthwith on receipt of the purchase agreements, and same shall be paid over to the parties entitled thereto at the earliest possible date.

8. While under Section 10 of the Act, and in accordance with the decision which Mr. Justice Meredith is reported to have given to the King-Harman Estate and Taafe's Estate, a village or town may be purchased as a portion of an estate, the Commissioners in dealing with such sales are to have regard to the definition of the

* These Regulations are cancelled by the Regulations of 13th February 1906, *post* p. 560.

word "holding" contained in the Land Law (Ireland) Act, 1881, and to the objection to making advances under the Land Purchase Acts for the purpose of the resale of town holdings on the ground of the insufficiency of the security, and also to the amount of money available for the purchase of land under the Land Purchase Acts.

9. If any decision be given by the Judicial Commissioner, or any Division or Judge of the High Court to whom a question of law has been referred under Section 71, or by the Court of Appeal or the House of Lords, inconsistent with any of the provisions of these Regulations, the Estates Commissioners shall act in accordance with such decision unless and until it is reversed instead of in accordance with any provision of these Regulations which may conflict with it.

Given at His Majesty's Castle of Dublin this 4th day of July 1905.
By His Excellency's Command.
J. B. DOUGHERTY.

* These Regulations are cancelled by the Regulations of 13th February 1906, *post* p. 560.

IRISH LAND COMMISSION.

RULES UNDER THE LAND PURCHASE ACTS.

[*16th day of March* 1897.]

It is this day ordered that the following General Rules and Orders shall, from and after this date and until further order, take effect and be in force in the Irish Land Commission in relation to all proceedings under and in pursuance of the Land Purchase Acts as defined by the Land Law (Ireland) Act, 1896, and that all Rules and Orders, except the Rules dated this day in relation to proceedings under Part V. of the said Act,* shall cease to be in force as regards all proceedings commenced or continued after this date; save that as regards proceedings now pending, where these Rules and Orders are not applicable, the General Rules and Orders in force at the date hereof shall remain in force as if these Rules had not been made.

Order I.

Construction of Terms.

1. In these Rules, unless the context otherwise requires, "Land Commission" shall mean Irish Land Commission; "Commissioner" shall mean one of the Irish Land Commissioners; "the Judicial Commissioner" shall mean the Judicial Commissioner of the Land Commission; "a Judicial Commissioner" shall include the Land Judge of the Chancery Division of the High Court of Justice in Ireland; "a Land Judge" shall include the Judicial Commissioner of the Land Commission when acting as a Land Judge; "High Court" shall mean Her Majesty's High Court of Justice in Ireland; "Court" shall mean Court of the Irish Land Commission; "holiday" shall mean any day upon which the offices of the Land Commission shall be closed; "the Commissioner," and "the Examiner" shall respectively mean the Commissioner or Examiner to whom the proceeding in question is for the time being referred; and all other expressions shall have the meaning assigned to them by the Land Purchase Acts.

* These Rules, which are now obsolete, are printed in Statutory Rules and Orders, 1897, at pp. 442–8.

Order II.

Examiners and Registrar.

1. The Examiners and Registrar shall perform their respective duties in person; provided that when any Rule or Order directs that any act shall be done, or duty discharged by an Examiner, or by the Registrar, the same may be done or discharged, in the case of an Examiner, by the First Assistant Examiner, or an Assistant Examiner, with the sanction of the Judicial Commissioner; and in the case of the Registrar, by such officer as the Judicial Commissioner shall for that purpose from time to time appoint.

Order III.

Time.

1. In the computation of time for the purpose of these Rules and Orders, the word "month" shall mean calendar month, and the period of a month shall not be extended by reason of any intervening holiday, but when the time limited is a fortnight or any less period, the time so limited shall be extended by any intervening holiday or holidays except Sundays.

2. The computation of time by days shall be exclusive of the first and inclusive of the last day.

3. Whenever the time limited expires on a Sunday or other holiday it shall be extended to the next day on which the offices of the Land Commission shall be open.

4. The Court shall have power to enlarge or abridge the time appointed by these Rules and Orders, or fixed by any Order, for doing any act, or taking any proceedings, upon such terms, if any, as the justice of the case may require, and any such enlargement may be applied for and ordered after the expiration of the time appointed or allowed.

Order IV.

Originating Statement.

Proceedings to be commenced by originating statement.

1. All proceedings for sale under the Land Purchase Acts shall, unless the sale be by the Land Judges, be commenced by the lodgment of an originating statement.

Form, and verification of.

2. The statement shall be in accordance with Form 1, in the Appendix hereto, with such variations as the nature of the case may require, or in such other form as the Land Commission may from

time to time direct. It shall be fairly written on post paper, book-wise, with sufficient margin, and with a parchment back, shall be divided into paragraphs, and shall be verified by the affidavit of the vendor or vendors, or, if a Commissioner shall so permit, by the vendor's solicitor, who shall state in the affidavit the reason why the statement is verified by him and not by the vendor. The person verifying the statement shall, before making his affidavit, make all reasonable inquiries to ascertain what superior interests as defined by Section 31 of the Land Law (Ireland) Act, 1896 (if any), affect the lands.*

Lands to be included in.

3. The statement shall include all lands which the vendor intends to sell, and any of his lands upon which his tenants have rights of grazing or turbary, and, if the vendor intends selling part only of any townland, the statement shall include the entire of such townland, or so much thereof as belongs to the vendor. The statement may include all lands which are held by the vendor under a common or partly common title, or which are subject to any common incumbrance, but the vendor may, if he so desire, insert a statement after the name of any townland to the effect that the same, or any particular part thereof, is excluded from the proceedings. The Ordnance Survey names only of the townlands shall be used in the originating statement, and if the estate comprises part only of a townland it must be so stated.

Not to include lands the subject matter of proceedings before the Land Judges.

4. No originating statement shall be lodged comprising any land in respect of which proceedings for sale, or for declaration of title, are pending before the Land Judges.

Directions when land to be sold is included in an originating statement already filed by another person.

5. When a person desires to sell under the Land Purchase Acts land comprised in an originating statement already lodged, the former vendor's interest in which he shall have acquired by purchase or otherwise before such vendor had agreed to sell such land to the tenant or tenants thereof, such person or his solicitor shall, before lodging an originating statement, take the Examiner's direction as to its preparation, with a view to avoiding the repetition of matter disclosed by the statement already lodged, or in the course of the proceedings in the former matter, and as to how far the abstract of title and other documents already lodged may be utilised in the new proceedings. The statement, when lodged, shall be referred to the Commissioner to whom the statement and proceedings in the former matter stood referred.

6. Each originating statement shall be endorsed with the name, and registered place of business of the vendor's solicitor, or, if the

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* See Form 1, *post* p. 420.

Statement to be endorsed with vendor's address for service, or the name and address of his solicitor.

vendor is not represented by a solicitor, with an address within the municipal boundary of the city of Dublin to be called the vendor's address for service, where notices, orders, and other documents may be left for him.

Filing, and reference to a Commissioner.

7. The statement shall be filed in the Registrar's Office, and the registrar shall endorse thereon the date of filing. Every statement shall be marked with the record number indicating the order in which it has been received, shall be entered in the index of cases and record of proceedings, and shall be referred to such Commissioner, and in such rotation as the Land Commission may from time to time direct, and all subsequent proceedings usually conducted before one Commissioner shall, save as may be otherwise directed by rule, be conducted before the Commissioner to whom the statement has been referred; provided that the statement and proceedings, or any matter arising thereunder may at any time be transferred on the fiat of the Judicial Commissioner from any one Commissioner to another, and on transfer of the statement and proceedings the minutes on the index of cases and record of proceedings shall be altered accordingly.

Amendment of originating statement.

8. No amendment shall be made in any originating statement that has been filed except by leave of the Commissioner, and in such manner as he may direct, and every such amendment shall be initialled and dated by the registrar.

Supplemental statement.

9. Additional statements, when lodged, shall be deemed to be supplemental to, and shall be endorsed with the record number of the originating statement and with a distinguishing letter. When, however, a vendor who has already lodged an originating statement desires to institute proceedings for the sale of additional lands, the title to, or incumbrances (if any) upon which are in no way common with the title to, and incumbrances upon the lands comprised in any originating statement already filed by him, the Commissioner may, if it shall appear to him expedient, having regard to the special circumstances of the case, permit an originating statement to be lodged, and to receive a new record number.

Notice of filing and general notice to claimants.

10. The originating statement, when filed, shall be laid before the Commissioner, who shall endorse thereon directions as to the service of the notice of filing, the publication of the general notice to claimants, the payment of interest on the purchase money, and such other matters as he may think fit. The notice of filing shall be in Form 2, or such other form as the Commissioner may direct. Subject to any directions that may be given by the Commissioner, it shall be served upon all persons named in the originating statement as entitled to any superior interest or incumbrance affecting the lands (except Her Majesty the Queen, the Commissioners of Public Works

in Ireland, or the Land Commission). The general notice to claimants shall be in Form 3.*

11. When the vendor has lodged an originating statement in accordance with the General Rules dated 15th August 1891, it shall not be necessary for him, unless the Commissioner shall otherwise direct, to lodge any further originating statement in respect of land therein comprised; but before lodging any agreement for purchase, the vendor or his solicitor shall attend before the examiner, and take his directions as to the further proceedings. If the examiner be satisfied that there is no superior interest affecting the land which would necessitate further service of the notice of filing, or further publication, he shall endorse on the originating statement a certificate to that effect, and the agreement for purchase may thereupon be lodged. If it shall appear to the examiner that further service or publication is necessary, he shall lay the originating statement before the Commissioner for directions, and before doing so, he may require the vendor to furnish such further evidence by affidavit or otherwise as may be necessary.

Proceedings when originating statement in accordance with Rules, dated 15th August 1891, has been lodged.

Order V.†

Notices and Requisitions to the Quit Rent Office and Board of Public Works, and Requisition as to the Tithe Rent-charge.

1. *Together with the originating statement there shall be lodged in duplicate for transmission through the Notice Office notices and requisitions to the Quit Rent Office and Board of Public Works in Forms* 4 *and* 5. *There shall also be lodged a requisition as to tithe rent-charge in Form* 6.

To be lodged with originating statement.

2. *The notices and requisitions shall include all the lands comprised in the originating statement, and if part only of any townland be included, the words "part of" must be inserted before the name of such townland.*

Shall include all lands in statement.

3. *The vendor or his solicitor shall be responsible for the accuracy of the notices and requisitions, and if any of them be found to be inaccurate in any particular, the costs thereof may be disallowed on taxation.*

Vendor, or his solicitor to be responsible for accuracy of.

4. *It shall be the duty of the vendor or his solicitor to furnish to the Quit Rent Office and Board of Public Works respectively such documents and other evidence as may be necessary to enable them to comply with the requisitions.*

Vendor, or his solicitor to furnish documents and evidence.

5. *As soon as the returns to such requisitions have been made and noted, the requisitions, with the returns endorsed, shall be transmitted to the vendor or his solicitor.*

Returns to requisitions.

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* See Forms 2 and 3, *post* pp. 424 and 425.

† Order V. is rescinded by Order II., Rule 1 of Rules of 4th December 1903, *post* p. 522.

Order VI.

Lis Pendens.

As soon as the originating statement has been filed, the vendor or his solicitor shall register the matter as a *lis pendens*, and the Registrar shall, if so required, sign a certificate of the filing of the originating statement for this purpose in Form 7.

Order VII.

Appearances.

"Appearance Book" to be kept in Registrar's Office.

1. An "Appearance Book" shall be kept in the Registrar's Office in which any person claiming to be interested in the subject matter of any proceedings shall be at liberty, either personally or by his solicitor, to enter an appearance for the purpose of being served with notices of such proceedings; and any person so appearing may withdraw his appearance.

Name and address of solicitor, or address for service to be stated.

2. If a person appears by a solicitor, the name and registered place of business of such solicitor shall be stated. If the appearance be not by a solicitor, the person appearing shall give an address within the municipal boundary of the city of Dublin where notices may be left for him; and such address may be altered by him from time to time.

Appearance may be general or special.

3. An appearance may be either general for the purpose of receiving notice of all proceedings in the matter, or special in order that the person appearing may have notice of any particular proceeding to be therein specified, or for the purpose of giving a consent or otherwise binding the party. The appearance, if general, must state whether the person appearing requires notice of the conditional sanction of all sales.

Appearance entered without sufficient reason may be cancelled, and person appearing ordered to pay costs.

4. If the Commissioner considers that an appearance, whether general or special, has been entered without sufficient cause, he may direct such appearance to be cancelled, or he may direct a general appearance to be varied to a special one; and he may order the person appearing without sufficient cause, or entering a general appearance when a special appearance would have been sufficient, to pay the costs of any notice or other document that may have been served upon such person.

Notices to be served of entry, withdrawal, or variation of appearance.

5. Every person entering, or withdrawing an appearance, or altering his address for service, shall give notice thereof in writing to the vendor or his solicitor; and no second or other appearance by any person in any one matter shall be permitted until the previous appearance be withdrawn.

6. All appearances shall be entered in the appearance book accurately and in a legible hand in the presence of the officer in charge of the book, whose duty it shall be to see that the proper notices are served. To be entered accurately in presence of officer.

7. The registrar, or an officer of his department, shall, if required, sign a certificate in Form 8, specifying the appearances that shall have been entered in any matter, or a certificate in Form 9 of the entry of any particular appearance.* Certificate of appearances.

8. The vendor's address for service, or, if he be represented by a solicitor, the name and registered place of business of such solicitor shall be entered upon the record of proceedings. Vendor's address for service to be entered on record of proceedings.

9. Should the vendor desire to change his address for service, or his solicitor, or to appear in person, notice of the change shall be served upon the solicitor (if any), whose name appears on record as representing the vendor, and upon all persons who have entered appearances in the matter, and thereupon the entry on the record of proceedings shall be varied. Change of solicitor or address by vendor.

Order VIII.

Services.

1. Any vendor or purchaser who has made or joined in any application to the Land Commission, and any person who has entered a general or special appearance in a matter may be served with any order or notice in the matter through the notice office of the Land Commission; and any person who has served a notice of motion may be served in the same manner with any order or notice having relation to such notice of motion; and any person who has been served with a conditional order, and against whom such order has been made absolute, may be served in the same manner with any order or notice. Persons who may be served through notice office.

2. Except in the cases aforesaid, any person whom it may be necessary to serve with any order or notice must be served personally, or at his residence, unless the Commissioner authorises some other mode of service. Other services to be personal, or at the residence.

3. Service at the residence must be at the residence where the party is residing at the time, and should be upon the wife, husband, father, mother, son, daughter, brother or sister, or domestic servant of the party intended to be served. The person to whom the document is delivered must be of the age of sixteen years or upwards, What constitutes service at the residence.

* See forms, *post* p. 431.

and must be requested to give such document to the person for whom the same is intended. Service at a place of business shall not be deemed service at the residence.

Original to be shown except in certain cases.

4. In the case of any order, notice, or other document sealed or signed by an officer of the Court, the original should be shown unless it shall appear that such a course would be impracticable from the fact that parties residing far apart had to be served within a limited period.

Method of service through notice office.

5. Every person requiring to have a notice or other document served through the notice office, shall, before the hour of two o'clock in the afternoon, or, if the day be a Saturday, before noon, leave with the proper officer the document which he shall require to have so served, together with as many copies thereof as he shall require to have served, and in the case of a notice of motion, two copies thereof for the use of the Court. The document required to be served, and also the copies thereof left for the use of the Court, shall have written at foot thereof or endorsed thereon the name and registered place of business of each solicitor, and the address for service of each party appearing in person on whom the same is to be served, and in the case of a solicitor the name of the party for whom he has appeared. There shall also be left at the same time envelopes directed to the several persons to be served at the several registered places of business, and addresses for service endorsed on the document to be served. The person requiring the document to be served, or his solicitor, shall mark upon every copy thereof which he shall require to have served, and also upon each copy left for the use of the Court that the same has been compared with and is a true copy of the document required to be so served, and shall sign the same with his name or the initial letters thereof, and every such person or solicitor shall be responsible for the accuracy of every such copy.

Duty of the officer receiving the notice.

6. The officer shall compare and check the addresses on the several envelopes with the names and addresses on the document to be served, and see that they correspond, and place the copies for service in their respective envelopes and secure the same, and place them with the official letters to be despatched the same day, and he shall enter in the register of notices a minute of the despatch of such copies and mark the entry with his initials. The originals of all documents transmitted through the notice office shall be filed, except in the case of a notice, or other document sealed or signed by an officer of the Court which may be retained by the person requiring the same to be served, provided he lodges a copy for filing.

7. Where any notice or other document is served through the notice office, the certificate of the proper officer that such notice or other document was duly transmitted by post shall be proof of the service thereof. Certificate of officer to be proof of service through notice office.

8. Every application for an order for substituted, or other service, or for the substitution of notice for service, shall be supported by an affidavit setting forth the grounds upon which the application is made. Whenever any such order shall be made, a copy thereof shall be served along with the notice or other document, as the case may be. Substituted service.

9. Every notice or other document of which six or more copies are required must be printed. Notices and other documents to be printed if six or more copies are required.

Order IX.

Lodgment and Delivery of Deeds, &c.

1. Deeds, muniments of titles, and other documents directed to be lodged in Court, either in pursuance of General Rules and Orders, or of an order or ruling made in any matter, shall, unless otherwise directed, be lodged in the Record Office of the Land Commission, and the person lodging the same shall bring in two schedules of such documents, one of which will be returned to him receipted by the keeper of records. If the documents are being lodged in pursuance of a notice or order, a copy of such notice or order must be produced at the time of the lodgment. Method of lodgment.

2. Any person having the custody of any deed or document relating to lands the subject matter of proceedings before the Land Commission, shall, if so ordered, and on such terms as the Court may think just, produce or lodge the same in Court for the purposes of such proceedings. Persons having custody of deeds must lodge same if ordered.

3. A mortgagee or a person entitled to a superior interest shall not be obliged to part with the instruments creating his security, or dealing with it, until the order for payment of his demand is made; but he shall be bound in the meantime to furnish copies thereof, if required, on payment of the ordinary charges, and to produce the originals if required by order of a Commissioner, or if the examiner shall certify that such instruments are required for the vouching of the abstract of title. Mortgagee or owner of superior interest not obliged to lodge his deeds until paid.

4. The Court may make such order as may be just as to the lien of any person lodging deeds, muniments of title, or other documents, or as to payment of the costs of lodging the same. Lien on deeds.

Notice to lodge, and order for lodgment.

5. Before applying for an order upon any person to lodge deeds or other documents, notice must be served upon such person in Form 11, with such variations as the circumstances of the case may require; and when making the application there must be produced evidence that the person against whom the order is sought has the documents required in his custody, power, or procurement, and a certificate from the keeper of records that such documents have not been lodged.*

Person claiming lien must file affidavit stating particulars.

6. Any solicitor or other person who is ordered to lodge deeds or other documents in Court shall, if he claims to have a lien on such documents, file an affidavit stating the particulars of such lien, and refer to such affidavit in the schedule of documents lodged, otherwise the lien may be disallowed.

Person failing to lodge deeds in pursuance of notice may be made liable for costs.

7. Any person failing without sufficient cause to lodge in Court documents in his possession, power, or procurement, relating to lands, the subject matter of proceedings before the Land Commission, within ten days of the service upon him of the notice referred to in Rule 5 of this Order, may be made liable for the costs of any application to the Court that may become necessary by reason of his default.

Delivery or inspection of.

8. The examiners shall have authority to order the delivery of documents lodged in the Record Office, on an undertaking to return the same being given, or finally, but the examiner shall, if he thinks necessary, direct notice of an application for such order to be given. They may also give any person whom they may consider entitled to do so liberty to inspect any documents so lodged. The keeper of records shall not, save as aforesaid, or save to an officer of the Land Commission, deliver any deeds or documents except by order of the Commissioner.

Order X.

Abstract of Title.

To be lodged with keeper of records.

1. At any time after the filing of the originating statement, and not later than one month from the first conditional sanction of an advance, the vendor or his solicitor shall lodge with the keeper of records an abstract of the vendor's title, together with the original deeds and other muniments of title not theretofore lodged in Court. If the original of any document be not procurable, a copy, or such other evidence of its contents as can be obtained shall be lodged,

* See Form 11, *post* p. 436.

except in the case of an outstanding mortgage of which the vendor or his solicitor has no copy, and the original of which is available for inspection.

If the deeds are numerous a deed box shall be lodged of such size as may be directed by the keeper of records, and in all cases a schedule of the deeds lodged must accompany the abstract.

The keeper of records shall receipt the abstract and issue a certificate of its lodgment, which shall forthwith be lodged in the Examiner's Office.

Preparation and verification of.

2. The abstract shall include all lands comprised in the originating statement, and shall be fairly and legibly written in round-hand on small brief paper, and on one side only, and with proper and distinct margins for the several parts of the instruments abstracted, and shall be verified by the solicitor by whom the same shall have been prepared, by an affidavit in Form 12. Abstracts of title shall be prepared in accordance with the directions in that behalf in the Appendix hereto.*

If land be registered, land certificate to be lodged in lieu of abstract of title.

3. If the title to the lands be registered under the Local Registration of Title (Ireland) Act, 1891, the land certificate with the *lis pendens* entered thereon shall be lodged in lieu of an abstract of title.

Order XI.

Rulings on Title, and Ascertainment of Superior Interests.

Rulings on title.

1. The rulings on title and directions for searches when given shall be transmitted to the vendor or his solicitor, and any requisitions thereon must be discharged on personal attendance before an examiner, and the mode in which each requisition is discharged shall be entered on the rulings and in the title-book. No person, except an officer of the Commission, shall write upon the rulings.

Requisition for searches.

2. The draft requisition for searches in the Registry of Deeds shall be in Form 13, and shall be lodged in the Examiner's Office for settlement within one week of the issue of the directions for searches, unless such directions necessitate the production of further evidence. The requisition must be lodged in the Registry of Deeds within three days from the settlement of the draft.†

Persons in receipt of head rents, &c., must furnish evidence as to superior interests.

3. If the lands, or any part thereof, be held by the vendor under fee farm grant, or lease, the examiner shall, when ruling the title, make such requisitions as may be necessary to ascertain the particulars of any superior interest that may affect the lands;

* See Form 12, *post* p. 436. See Directions as to abstracts of 4th December 1903, *post* p. 550.

† See Form 13, *post* p. 437.

and all persons in receipt of, or entitled to any rent, fees, duties, services, or royalties issuing out of, or to be rendered in respect of the lands, shall be bound to furnish to the vendor, or his solicitor, such evidence as may be necessary to enable him to comply with such requisitions; and such persons shall be entitled to their costs reasonably incurred in connection therewith, the same to be paid by the vendor, or out of the proceeds of the sales.

Order XII.

Agreement for Purchase and Application for an Advance.

Form of agreement.

1. Agreements between vendor and tenant for the sale and purchase of a holding, with application for an advance, shall be in Form 10, or such other form as the Land Commission may from time to time direct. All such agreements shall be on stout writing medium paper, and be endorsed with the record number, title of the matter, county, and tenant's name, and shall be signed by both vendor and tenant, or some person acting under a power of attorney on behalf of either of them, and shall be verified by the affidavit of the tenant, and bear an Inland Revenue stamp or stamps to the value of sixpence, which must be cancelled according to law. Agreements shall be prepared in accordance with the directions in that behalf annexed to the form.*

Power of attorney to be lodged.

2. When the agreement is signed by a person acting under power of attorney, the power of attorney or, if the original is enrolled in the High Court, a certified copy thereof shall be lodged and submitted to the examiner to certify whether it is sufficient.

Agreement to be lodged within one month.

3. No agreement shall be received after the expiration of one month from the date of the execution thereof by the tenant, unless it has to be executed by a person residing out of the United Kingdom, in which case it must be lodged within two months of the execution thereof by such person.

Schedule to be lodged with agreements.

4. When two or more agreements for purchase in any one estate are lodged at the same time, they shall be accompanied by a summary by way of schedule in such form as the Land Commission may from time to time direct.

Agreement not to be received if inaccurately prepared.

5. No agreement for purchase shall be received which is not accurately filled up in accordance with the rules and directions, or which does not correspond with the schedule of areas furnished with the map.

* See Form 10, *post* p. 432.

Order XIII.

Maps and Surveys.

1. Every agreement for purchase, subject as hereinafter mentioned, shall be accompanied by an Ordnance map, on the 6-inch scale, neatly mounted on strong linen, distinguishing thereon the exterior boundaries of the holding or holdings, and by such evidence of area as is hereinafter provided. Where the holdings are so small that the 6-inch scale is insufficient, an Ordnance map on the 25·344-inch scale may be used, or an enlargement of the smaller holdings may be made.

Map to be lodged with agreement for purchase.

2. Maps shall be prepared and furnished by townlands, or groups of townlands; and should, when practicable, not exceed 18 inches by 12 inches in size, and in every case the names of the adjoining townlands should be shown upon the map. In no case should different maps be used for sales of different holdings upon the same townland.

Number and size of.

3. The maps must be accompanied by a certificate of the tenement valuation, and by a schedule of areas giving the contents of each separate plot and the total area of each holding, and shall be in the form used by the Ordnance Survey Department or such other form as the Land Commission may from time to time direct.

Certificate of valuation and schedule of areas.

4. If, for the purposes of proceedings in the Landed Estates Court, or Land Judges' Court, a survey of the estate has been made by the Ordnance Survey Department, the rental map shall be used if suitable. With the rental map shall be lodged a copy of the rental (if procurable), and a copy of the Ordnance surveyor's report, accompanied by an affidavit from the vendor, his agent, or a competent surveyor in the employment of the vendor, stating that the several holdings are correctly marked on the map as they then exist, and the affidavit must state that the deponent visited the lands and examined the map upon the grounds.

Landed Estates or Land Judges' Court rental map to be used if suitable.

5. If there has been no such survey as aforesaid, or, if the rental map be unsuitable, the latest revised Ordnance sheet, having holdings marked thereon at the General Valuation Office, and verified in like manner, may be used.

Ordnance sheet marked at General Valuation Office may be used.

6. When trifling alterations have to be made in rental maps, or maps marked at the General Valuation Office, they shall be neatly made in a distinctive colour by a competent surveyor, who shall amend the areas as shown in the Ordnance surveyor's report, or schedule of areas, and verify the same by an affidavit in which he shall state his qualification.

Alterations in map to be made and verified by surveyor.

Estate maps may be used if suitable.

7. Existing estate maps where suitable, and provided they are accompanied by proper evidence of area, and correspond with the Ordnance Survey as to names and townland boundaries, may be accepted at the discretion of the proper officer.

Surveys.

8. If the General Valuation Office map be very inaccurate or otherwise unsuitable, and if existing estate maps be not adopted, an Ordnance map with the holdings correctly delineated thereon, and accompanied by a schedule of areas, and certified by a competent surveyor, who shall state his qualifications, may be lodged; but where surveys of estates are necessary, they shall be made by the Ordnance Survey Department.

Orders for survey; payment of account; liability of solicitor.

9. Directions for surveys by the Ordnance Survey Department may be obtained in the Agreements for Purchase Office, and the solicitor applying shall prepare such direction in Form 14, and shall furnish with it an Ordnance sheet, showing the lands to be surveyed, and a certificate of the tenement valuation. With respect to surveys or revisions of surveys made by the Ordnance Survey Department, or maps or copies of maps and other documents drawn by or obtained from that Department, the account shall be paid by the person at whose instance the work was done, or his solicitor, before the maps are delivered, or at such other period as that Department shall direct. Every solicitor shall be personally responsible for the costs of any such survey made in pursuance of a direction issued at his instance.

Order XIV.

Inspection of Holding.

Reference to inspector.

1. Agreements for purchase and applications for advances shall be referred to an inspector (being the resident inspector or one of the assistant commissioners), to report as to the security for the advance and such other matters as the Land Commission may direct, and in such form as they may from time to time direct.*

Copies of report may be obtained.

2. The parties to the agreement or application may obtain certified copies of such report on payment of the prescribed fees.

Inspector to notify date of inspection to parties.

3. Due notification of the intention to inspect a holding shall be given by the inspector to the parties to the agreement or application.

Inspector to ascertain boundaries, and certify map.

4. Upon the inspection the boundaries of the holding shall be ascertained by the inspector, and the map, with such alterations, if any, as he shall find necessary, shall be certified by him to be correct.

* For variation of this Rule, See Order I. of Rules of 17th May 1901, *post* p. 471.

Order XV.

Conditional Sanction of Advance or Agreement for Purchase; Notification to Parties.

1. The decision of the Commissioner on an application for an advance, or that an agreement for purchase shall be carried into effect by vesting order, shall be signified by a minute or order endorsed upon the agreement or application, and signed by the Commissioner.

Decision on application to be by order endorsed thereon.

2. When a holding is situated in more counties than one the Commissioner, having regard to the area and value of the holding, shall determine and state in the Order conditionally sanctioning the advance in which county such holding shall be deemed to be for the purposes of the Purchase of Land (Ireland) Act, 1891.

Holding in two counties.

3. Except in the case of sales by the Land Judges or by the Land Commission, no advance shall be conditionally sanctioned until the services of the notice of filing of the originating statement, and the publication of the general notice to claimants have been vouched in the Registrar's Office, and a certificate to that effect has been endorsed upon the originating statement by the proper officer.

Advance not to be sanctioned until services and publications are vouched.

4. There shall be kept in the Agreements for Purchase Office a register of the persons directed to have notice of the filing of the originating statement, or who have entered appearances in the matter requiring notice of the sanction of sales, and their postal addresses, or those of their solicitors, and such persons or their solicitors may change the addresses from time to time, or have the register otherwise corrected; provided every address so registered shall be one within the United Kingdom. Notice of the conditional sanction of every sale shall be transmitted through the post to the vendor and purchaser and all persons whose names appear on the register, or to the respective solicitors of such of the aforesaid persons as may be represented by solicitors; and any person whose rights may be prejudiced by the sale may within 14 days of the date of such notice apply to the Commissioner upon notice to the other persons interested to vary or discharge his order.

Conditional sanction to be notified to persons interested.

5. If in the course of the investigation of the title, or otherwise in the course of the proceedings, a superior interest or incumbrance not disclosed in the originating statement is found to affect the lands, it shall be the duty of the examiner to take the directions of the Commissioner as to the service of notice of

Notice to owners of superior interests and incumbrances not disclosed in originating statement.

the filing of the originating statement and of the sanction of such sales as may have been conditionally sanctioned upon the persons entitled to such superior interest or incumbrance, and no advance shall be conditionally sanctioned nor shall any sale be completed until the services of such notices as may be directed have been vouched.

Person whose claim has been discharged not to receive further notifications.

6. When the examiner ascertains that the claim of any person whose name is registered as entitled to notice of the sanction of sales has been discharged, he shall direct the name of such person to be struck out of the register.

Order XVI.*

Vesting Order.

When requisitions on title are discharged, examiner to cause draft vesting order to be prepared, or certify that agreement may be fiated.

1. *As soon as the requisitions on title or other requirements preliminary to the making of a vesting order have been complied with, the examiner shall either cause a draft of the vesting order to be prepared, or shall, if the Commissioner, with the assent of the Judicial Commissioner, permits a vesting order to be dispensed with, endorse upon the agreement for purchase a certificate to the effect that the same may be fiated by the Commissioner, specifying in such certificate the conditions, exceptions, and modifications (if any) subject to which the agreement may be so fiated.*

Draft vesting order to be settled by examiner and approved by Commissioner.

2. *All draft vesting orders shall be settled by the examiner and submitted to the Commissioner for approval.*

Examiner may direct two or more holdings to be vested by one order.

3. *When two or more vesting orders on the same estate would, if made separately, be in a common or partly common form, the examiner may direct that either the whole, or any portion of the estate shall be vested in the several purchasers by a single order.*

Maps on vesting orders.

4. *No map shall be endorsed upon, or referred to, in a vesting order unless a map of the lands being vested has been prepared for the purpose of proceedings in the Landed Estates Court, Ireland, or the Land Judges' Court, and is attached to a conveyance, order, or rental in such proceedings; in which case a copy of such map may be endorsed on the vesting order by the Ordnance Survey Department, and shall be referred to in such vesting order, and shall be sealed therewith.*

Amount of stamp duty to be lodged.

5. *The purchaser, or if the price of the land sold be inclusive of all expenses incidental to the purchase, the vendor or other the person having carriage of the proceedings, or their respective solicitors shall, when so*

* Order XVI. is rescinded by Order VI., Rule 1 of Rules of 4th December 1903, *post* p. 525.

directed by the examiner, either have the purchaser's vesting order stamped, or lodge in Court the amount of the stamp duty payable thereon, or on the fiat in lieu thereof. The examiner or an officer of his department shall assess the amount of the duty to be lodged in Court, and issue the necessary authority to enable its lodgment.

Execution of vesting order or signing of fiat.

6. *Vesting orders and fiats, when examined and certified by the examiner, shall be presented to the Commissioner for execution, and in every case shall, unless already stamped, be accompanied by a receipt for the lodgment of the stamp duty payable thereon.*

Stamping of vesting order or fiat.

7. *The vesting orders when executed, or the agreements for purchase when fiated, shall, unless already stamped, be delivered by an officer of the Land Commission to the proper officer of the Inland Revenue for stamping.*

Copy of vesting order to be filed.

8. *A copy of every vesting order shall be filed in the Land Commission.*

Rectification of vesting order.

9. *An application to have a vesting order, or fiat in lieu thereof, corrected or rectified shall be by motion to a Judicial Commissioner; and a minute of the order for rectification when made shall be endorsed on the vesting order, or agreement for purchase, as the case may be, and signed by the registrar.*

Order XVII.*

Proof of Occupancy.

Examiner to be satisfied as to occupancy of purchaser before execution of vesting order or fiat.

1. *No vesting order or fiat in lieu thereof shall be executed, nor shall any advance to a purchaser be made, unless the examiner be satisfied that the purchaser was alive, and, if he be tenant of the lands purchased, that he was in occupation of such lands within fourteen days of the date of the vesting order, fiat, or advance, as the case may be.*

Affidavit of occupancy.

2. *The vendor or other the person having carriage of the proceedings, or their respective solicitors, shall when required produce to the examiner an affidavit, sworn not more than three days previously, verifying the occupancy of such of the purchasing tenants on the estate as are in occupation of their respective holdings, and to whom advances are about to be made, or whose vesting orders are about to be executed, or agreements about to be fiated. Such affidavit shall be in Form* 15, *and shall be made by the vendor, his agent, or some person who from local knowledge is capable of deposing to the facts therein stated.*

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* Order XVII. is rescinded by Order VI., Rule 1 of Rules of 4th December 1903, *post* p. 525.

Order XVIII.*

Making of Advance and Charging Order.

Advance not to be made if interest be fourteen days in arrear.

1. *No advance shall be made to any purchaser who is fourteen days* † *in arrear in the payment of any portion of the interest on his purchase money which has become payable.*

If advance does not exceed three-fourths of price, balance to be lodged in Court.

2. *An advance which does not exceed three-fourths of the price to be paid for the holding shall not be made until the purchaser shall have lodged in Court the balance of such price when such balance is payable in cash.*

Final order for advance.

3. *The final order for the making of an advance shall be prepared and certified by the examiner, and shall, if the nature of the proceedings allow, bear even date with the vesting order or fiat as the case may be, and be presented to the Commissioner for signature therewith.*

Charging order.

4. *The vesting order shall, when practicable, charge the holding with the repayment of the advance. If a separate charging order be necessary, it shall be prepared by the examiner, and shall be signed by the Commissioner, and sealed with the seal of the Land Commission.*

Order XIX.‡

Registration of Purchaser's Ownership.

Particulars to be transmitted to Registrar of Titles.

1. *The particulars as to the holding to be prepared and transmitted by the Land Commission to the Registrar of Titles, in order that the title of the purchaser to the ownership of the holding may be registered pursuant to the Local Registration of Title (Ireland) Act,* 1891, *shall be as follows :—*

(a) *The record number (if any) and title of the matter in which the purchase was made.*

(b) *The date of the vesting order or fiat, as the case may be.*

(c) *The name, postal address, and occupation or other description of the purchaser.*

(d) *The townland or townlands with the area in statute measure of the portion of each comprised in the holding, and the county and barony, and, if necessary, for the purpose of identification, the parish in which each townland is situated.*

(e) *The tenure of the purchaser at the date of the purchase as stated in the agreement for purchase, or ascertained by the Land Commission.*

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* Order XVIII. is rescinded by Order VI., Rule 1 of Rules of 4th December 1903, *post* p. 525.

† Now two months; *see* Rules of 29th April 1899, *post* p. 470.

‡ Order XIX. is rescinded by Order VII., Rule 1 of Rules of 4th December 1903, *post* p. 525.

(f) *The particulars of the annuity payable in respect of the advance (if any) made by the Land Commission for the purchase of the holding.*

(g) *The particulars of any other rent-charge reserved in the vesting order.*

(h) *The particulars of any exceptions or reservations or superior interests subject to which the vesting order or fiat is made.*

(j) *The particulars of any easement, right, or appurtenance which the vesting order may declare the sale to be subject to or freed from.*

(k) *Any other matter which the examiner may consider necessary for the purposes of registration.*

The particulars to be in a schedule.

2.* *Such particulars shall be embodied in a schedule which shall be prepared and certified by the examiner, and signed by the Commissioner immediately after the execution of the vesting orders or the fiating of the agreements for purchase as the case may be. Each examiner shall, if practicable, include in a single schedule the particulars of all holdings comprised in the vesting orders, or agreements for sale, which he may present to the Commissioner for execution, or fiat on any one day; provided that if two or more holdings be vested by a single order a separate schedule may be used as regards the holdings comprised in such order.*

Schedule to be accompanied by map.

3. *The schedule shall be accompanied by an Ordnance sheet having the several holdings delineated thereon as they appear on the map used for the proceedings unless there be a map endorsed upon and referred to in the vesting orders, in which case a copy of such map may be endorsed upon the schedule by the Ordnance Survey Department, or the vesting orders may be produced to the Registrar of Titles for inspection.*

Schedule to be delivered to Registrar of Titles.

4. *The schedule shall be lodged in the office of the Registrar of Titles by an officer of the Land Commission.*

Order XX.

Apportionment and Redemption of Superior Interests.

I.—*Apportionment.*

Apportionment of tithe rent-charge and instalments in lieu thereof payable to the Commission.

1. Applications for the apportionment of the tithe rent-charge payable to the Land Commission, and of fixed annual instalments payable in lieu thereof, shall be made in Forms 16 and 17, and shall be lodged with the Superintendent of the Church Property Department of the Land Commission.†

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* But *see* Rule of March 19, 1900, *post* p. 470.

† See Forms 16 and 17, *post* pp. 439 and 440.

Apportionment of land improvement and drainage charges.

2. Applications for the apportionment of land improvement, or drainage charges payable to the Commissioners of Public Works in Ireland shall be made to such Commissioners, and the examiner shall, if necessary, issue a requisition for that purpose. It shall be the duty of the vendor or his solicitor to furnish such evidence and documents as may be required for the apportionment.

Applications for apportionment of other superior interests to be grounded on statement of facts.

3. Applications for the apportionment of impropriate tithe rent-charges, quit or Crown rents, rents, fees, duties, services, rent-charges, or annuities, shall be made by motion on notice grounded upon a statement of facts.*

Preparation and lodgment of statement of facts.

4. The statement of facts shall be verified by the vendor, or his solicitor, or by such other person acquainted with the facts as the Commissioner may direct, and shall be fairly written on post paper, with sufficient margin, and filed in the Registrar's Office. If the superior interest to be apportioned be contributed by the owner of the lands subject thereto in certain proportions, and it is proposed to apportion in like manner, the particulars of the origin of such contribution, whether under a partition or otherwise, should be set forth in the statement.

The statement shall be accompanied by and refer to an Ordnance map, showing the entire lands out of which the superior interest to be apportioned is payable, and the portions between which it is proposed to apportion the same, and shall also be accompanied by a certificate of the tenement valuation.

The map used for the purposes of the sale should be adopted when suitable; but the Commissioner may dispense with a map where it does not appear to him to be required.

Final order not to issue till sale completed.

5. No final order for apportionment shall issue until the sale, or, if there be more sales than one, until one of the sales under the Land Purchase Acts which necessitated the apportionment has been completed either by the payment of the purchase money into Court, or by the execution of the vesting order, or fiating of the agreement for purchase. The person at whose instance such order is made shall, if required, furnish a draft of such order and the same shall be settled by the Registrar.

Draft to be furnished if required.

Sealed counterparts of apportionment order to be issued to parties interested: printing of and maps thereon.

6. When a final order for apportionment has been made a sealed counterpart thereof, written or printed on stout hand-made paper or parchment, shall, except as hereinafter provided, be issued at the expense of the estate to the owner of the superior interest, and to the owner of any land upon which any portion of the superior interest which it is not intended to redeem has been apportioned. If four or

* For a modification of this Rule, see Order II., Rule 17 of Rules of 17th May 1901, *post* p. 471. See also Order VIII., Rule 2 of Rules of 4th December 1903, *post* p. 526.

more of such counterparts be required, the apportionment order shall be printed in such manner as the Land Commission may direct, and the original shall be filed in the Registrar's Office. If a map be referred to in the order it shall be drawn thereon by the Ordnance Survey Department. In the case of a quit or Crown rent no such counterpart shall issue at the expense of the estate without the direction of the Commissioner.

Memorandum of apportionment to be endorsed on instrument creating superior interest.

7. A memorandum of the apportionment shall be endorsed by the registrar upon the instrument creating the superior interest apportioned if such instrument be forthcoming.

Forms of statements of facts.

8. Statements of facts for the apportionment of impropriate tithe rent-charges shall follow Form 18; for the apportionment of quit or Crown rents shall follow Form 19; for the apportionment of rents, fees, duties, or services shall follow Form 20; and for the apportionment of rent-charges or annuities shall follow Form 21, with such variations and additions in each case as the circumstances may require.*

Certificate and copy of statement to be lodged when application is for apportionment of impropriate tithe rent-charge, or quit or Crown rent.

9. When application is made for the apportionment of an impropriate tithe rent-charge, or of a quit or Crown rent, the tithe rent-charge or quit rent certificate, as the case may be, and a copy of the statement of facts shall be lodged with the original, and the registrar shall transmit such copy to the Superintendent of the Church Property Department of the Land Commission, or to the Quit Rent Office, as the case may be, for report; and no application for apportionment shall be moved without the leave of the Commissioner until such report has been obtained

Instrument creating rent, rent-charge, or annuity to be lodged with statement.

10. When application is made for the apportionment of any rent, fees, duties or services, or of a rent-charge or annuity, the instrument creating the superior interest to be apportioned shall be furnished with the statement of facts, unless it be already lodged in Court.

II.—*Redemption.*

Redemption of quit and Crown rents, tithe rent-charge payable to Land Commission and land improvement or drainage charges.

11. When any quit or Crown rent, or land improvement or drainage charge, is being redeemed, the vendor or his solicitor shall produce to the examiner at the vouching of the allocation schedule, a receivable order from the Quit Rent Office, or the Board of Public Works, as the case may be, to enable the redemption money and arrears, if any, to be lodged to the proper account in the Bank of Ireland. Such receivable order shall specify separately the amount of the redemption money and of the arrears, and shall allow at least

* See Forms 18, 19, 20, and 21, *post* pp. 442, 444, 445, and 447.

seven clear days from the date of vouching for lodgment. When tithe rent-charge payable to the Land Commission or fixed annual instalments payable in lieu thereof are being redeemed, the vendor or his solicitor shall produce at such vouching a memorandum from the Church Property Department of the amount required for the redemption thereof, and of the arrears thereof.

Applications for redemption of other superior interests to be on notice.

12. The application for an order for the redemption of any other superior interest, or of any apportioned part thereof shall, if made by the person entitled thereto, be made on notice to the vendor, and if made by the vendor shall be made on notice to the reputed owner of such superior interest. Service must also be made on such other persons as may have entered appearances requiring notice of such an application, or as would appear to be affected by such redemption.*

Request to appoint arbitrator.

13. *When the redemption of any such superior interest as in the last preceding Rule mentioned (other than impropriate tithe rent-charge) or of any apportioned part thereof shall have been ordered, unless the price be agreed upon between the parties, or the determining of it referred to the Land Commission, within fourteen days from the date of the order, or within such further period as the Commissioner shall direct, the person who applied for such order shall serve upon the other party a request in writing to appoint an arbitrator following Form* 22.† ‡

Submission to Arbitration Court.

14. *The submission to an Arbitration Court and the appointment of the arbitrator or arbitrators and umpire shall be in Form* 23, *or in accordance therewith, and shall be fairly written upon foolscap paper, with sufficient margin, and be lodged in the Registrar's Office before the first sitting of the Arbitration Court. It shall be the duty of the officer receiving such submission to arbitration to see that the signatures thereto are proved by affidavit.*‡

Award.

15. *The award shall be on foolscap paper, with sufficient margin, and shall follow Form* 24, *as nearly as the circumstances of the case admit, and shall determine who is to bear the costs of the arbitration. When either party desires the award of a Court of Arbitration to be recorded, he shall within ten days from the making of such award serve notice on the opposite party of his intention to apply to the Court for such purpose. As soon as the Court orders the award to be recorded it shall be filed in the Registrar's Office together with the submission.*‡

Vouching of title to superior interest.

16. The person entitled to the price or compensation payable in respect of a superior interest, or his solicitor, shall, unless there be a sufficient reason to the contrary, attend before the examiner on the

* See Order II., Rule 2 of Rules of 17th May 1901, *post* p. 471.

† See Form 22, *post* p. 449.

‡ Rules 13, 14, and 15 are rescinded by Order VIII., Rule 1 of Rules of 4th December 1903, *post* p. 526.

vouching of the allocation schedule to prove his claim, and for that purpose shall, unless his title has already been investigated, file an affidavit which shall be prepared in accordance with the directions in the Appendix hereto, and such affidavit may be lodged with the examiner at any time after the redemption of the superior interest has been ordered.*

Price of superior interest may be placed to separate credit and invested.

17. If by reason of incumbrances affecting a superior interest or for any other reason the price or compensation payable in respect thereof cannot be distributed at the general allocation, the Commissioner may order such price or compensation to be paid into the Bank of Ireland to such credit as he may direct, and may make such order as may be just as to the investment thereof, and as to the payment of the dividends and interest thereon pending its distribution.

Memorandum of redemption of superior interest to be endorsed on instrument creating same.

18. Except in the case of quit or Crown rents, tithe rent-charges, and land improvement or drainage charges, a memorandum of the redemption of a superior interest or of any apportioned part thereof shall be endorsed by the registrar upon the instrument creating such superior interest, unless such instrument be retained in Court.

Order XXI.

Allocation.

I.—*Proceeds of Sales by Vendors to Tenants not paid into the High Court.*

Vendor to prepare allocation schedule.

1.† As soon as an advance shall have been made, unless such advance has been paid into the High Court, the vendor or his solicitor shall prepare an allocation schedule in Form 25.‡

To be vouched before examiner and listed for payment.

2. The allocation schedule shall be vouched before the examiner, and the case shall be then listed by him for allocation by the Commissioner.

II.—*Interest on Purchase Money collected by the Land Commission.*

Applications for payment by person not in receipt of rents.

3. Applications for the payment of interest on purchase money, accruing between the date of the agreement for purchase and the date upon which the advance is made by any person other than the person in receipt of the rents at the date of the agreement for purchase, shall be made to the Commissioner by motion on notice.

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* See directions, *post* p. 468.

† But *see* Order III., Rule 8 of Rules of 17th May 1901, *post* p. 473.

‡ *See* Form 25, *post* p. 452.

III.—*Proceeds of the Sale of a Holding sold by the Land Commission.*

To be lodged to particular credit.

4. All moneys received in respect of the proceeds of the sale by the Land Commission of a holding which was subject to an annuity payable to them shall be lodged to a credit to be entitled "In the matter of Section 38 of the Land Law (Ireland) Act, 1896, "and of the proceeds of the sale of the holding of [*here name the "proprietor who obtained the advance from the Land Commission*] in the "lands of , Barony , County ;" and the examiner shall issue a privity or receivable order to enable such lodgment to be made. Moneys so lodged shall not be allocated except in pursuance of an order signed by a Commissioner.

Entitling of documents.

5. All notices, affidavits, consents, and orders in reference to the allocation shall be headed "Court of the Irish Land Commission," and be entitled as in Rule 4 of this Order.

Solicitor to Land Commission to furnish particulars of fund to examiner.

6. It shall be the duty of the solicitor to the Land Commission to obtain as soon as possible from the Commissioner an order for the payment of all moneys due to the Land Commission in respect of the holding, and of all expenses incurred by the Land Commission in relation to the sale or otherwise with respect to the holding, and if there be any surplus after such payments he shall fill up and transmit to the Examiner's Office a form specifying the date of the sale, the amount realised, the particulars of the payments made, the amount of the surplus, the date on which the advance was made to the purchasing tenant of the holding, the name of such tenant, the amount of the advance, and the full title of the matter in which such advance was made; and all subsequent directions and rulings in reference to the matter shall, so far as possible, be written on such form. The examiner shall thereupon send for the land certificate evidencing the title of the proprietor whose holding had been sold, and if it shall appear therefrom that the title to the tenancy prior to the purchase by the tenant had been investigated, the examiner shall report as to who appears to him to be entitled to the surplus.

Examiner to give directions.

7. If such title has not been investigated, the examiner shall send for the agreement for sale to the purchasing tenant, the lease (if any), and any other document in the custody of the Land Commission which would help to disclose the title of the tenant prior to his purchase, and he shall note the nature of the tenancy, the date at which according to the agreement for purchase the tenant became entitled, the incumbrances (if any) disclosed in the agreement for purchase, and any information as to the title of the former proprietor disclosed by the title books, collection books, or otherwise, and he

shall give such directions for the guidance of the solicitor to the Land Commission as he shall think fit in reference to communications to be addressed to the former proprietor, to incumbrancers, or to other persons appearing to be interested in such surplus.

8. All correspondence in reference to the allocation shall be referred to and dealt with by the solicitor to the Land Commission, subject to any directions given by the Commissioner or examiner. Correspondence to be dealt with by solicitor to Commission.

9. All applications for payment shall, together with any accompanying evidence, be laid before the examiner, who shall thereupon make such requisitions as he may think necessary. It shall not be necessary to require any search other than a common search against the lands, and if title is being shown to a yearly tenancy such search shall not commence prior to the 1st January 1870, or the date of the creation of the tenancy if of a later date. If the amount involved be 50*l.* or under, a hand search will be sufficient. Application for payment: searches.

10. If the applicant be represented by a solicitor, a copy of the examiner's rulings shall be transmitted to such solicitor, and he shall be at liberty to write his replies opposite to the requisitions, but the requisitions are to be discharged by the examiner upon the original rulings. If the applicant be not so represented, and the amount involved be 50*l.* or under, it shall be the duty of the solicitor to the Land Commission to make the necessary searches, and, so far as possible, to comply with the requisitions of the examiner, and any costs necessarily incurred by him shall be defrayed out of the fund. Discharge of requisitions.

11. The examiner shall, as soon as his requisitions shall have been complied with, make his report at the foot of his rulings as to the person or persons appearing to him to be entitled to receive payment of the fund, and such report shall be laid before the Commissioner, who shall proceed to make his order thereon. The report shall then be filed in the Registrar's Office. Report and payment.

IV.—*General.*

12. Upon every application for payment a certificate of funds signed by the accountant must be produced. Certificate of funds to be produced on application for payment.

Order XXII.

Investments.

1. The stockbrokers for the time being appointed by the Lord Chancellor to carry out the investment of funds under the control of the Supreme Court of Judicature in Ireland shall be stockbrokers to the Land Commission; and such stockbrokers shall Stockbrokers of Supreme Court to act for Land Commission.

discharge their duties in such order or rotation or otherwise as the Land Commission may from time to time direct.

Payment of price and transfer of stock.

2. Whenever an order shall be made for the purchase of stock or securities with money standing to the account of the Land Commission, the price shall not be paid to the broker until he shall have transferred to the account of the Land Commission stock or securities equal in value to the money to be invested, deducting his commission; and whenever an order shall be made for the sale of stock or securities standing to the account of the Land Commission, the same shall not be transferred until the broker shall have lodged in the Bank of Ireland to the account of the Land Commission the price thereof, deducting his commission.

Order XXIII.

Guarantee Deposits.

To be in pounds only.

1. Guarantee deposits shall be made of pounds only.

Privity for lodgment of.

2. No guarantee deposit in cash shall be received unless accompanied by a privity in Form 26. Application for such privity shall be made by the party lodging the guarantee deposit, or his solicitor, and the privity shall be signed by the examiner, and transmitted to the accountant.*

Register of.

3. A register shall be kept in the Accountant's Office of all guarantee deposits, stating the names of the persons entitled to or interested in them, the names of the persons entitled to receive the interest thereon, and the lands to which they apply, and the securities (if any) in which they are invested.

Registration of guarantee deposits lodged in cash.

4. When a guarantee deposit is lodged in cash, the accountant shall register it in the name of the person whose name appears in the privity, and the interest shall be payable to him from the date of the advance.

Registration in other cases.

5. In all cases not otherwise provided for, the guarantee deposits shall be registered in the title of the matter until a Land Judge or the Commissioner, as the case may be, shall declare in whose name they are to be registered, and to whom the interest shall be paid, and such declaration, if made by the Commissioner, shall where practicable be made when the funds are being allocated.

Registrar to draw up direction as to registration.

6. When a Land Judge makes a declaratory order concerning the registration of guarantee deposits, or the payment of the interest thereon, the registrar of the Land Commission shall draw

* See Form 26, *post* p. 452.

up a direction in accordance with such order and transmit the same to the accountant; and for that purpose it shall be the duty of the person at whose instance the order shall have been made, or of his solicitor, to furnish to the registrar such documents as may be required.

Certificate of entry on register of.

7. The accountant may upon the application of any person entered upon the register as entitled to or interested in a guarantee deposit, or of his solicitor, or, by leave of the Commissioner, upon the application of any other person, issue to such person a certificate of the entry on the register.

Transmission of interest in.

8. Any person becoming entitled to or interested in any guarantee deposit may apply to the Commissioner for a ruling to have his rights as regards such guarantee deposit entered upon the register, and the accountant shall enter a minute of such ruling on the register.

Investment of.

9. Applications for the investment of guarantee deposits shall be made on notice to all parties interested therein. All such investments shall be made in the name of the Land Commission, and the expenses of and incident to such investments shall be paid or provided by the applicant.

Certificate of entry on register to be produced on all applications.

10. Upon all applications concerning guarantee deposits standing to the credit of matters, the certificate of the entry on the register of guarantee deposits shall be produced.

Payment of interest on.

11. The dividends on the guaranteed land stock retained for guarantee deposits and the interest or dividends on guarantee deposits otherwise invested, shall be payable immediately after the respective dates upon which the Land Commission shall receive such interest or dividends, and shall on the occasion of the first payment after investment be calculated from the date of such investment. There shall be deducted from the first payment of dividend after investment (if not otherwise provided) the expenses of and incident to the investment, and the proportion of dividend which accrued up to the date of the investment. The proportion of dividend so deducted may be either retained by the Land Commission as uninvested guarantee deposits, or invested in the same securities at their discretion.

Applications for payment of guarantee deposits in respect of sales under Acts of 1891 to be by letter.

12. Applications for payment to the persons entitled thereto of guarantee deposits retained in respect of advances under the Purchase of Land (Ireland) Act, 1891, or the Redemption of Rent (Ireland) Act, 1891, shall be made by letter addressed to the secretary of the Land Commission. The application shall be referred to the accountant, and if he certifies that no part of the guarantee deposit has been actually applied towards the payment of a debt declared to be irre-

coverable, it shall be laid before the Commissioner for consideration and direction.

Payment out of proportion of guarantee deposits in respect of other sales.

13. *The accountant shall, as regards each estate, report from time to time to the Commissioner how much of the advances made otherwise than under the Purchase of Land (Ireland) Act,* 1891, *or the Redemption of Rent (Ireland) Act,* 1891, *and in respect of which guarantee deposits have been provided, are ascertained to have been repaid at the end of each decade of the annuity, and the particulars of the entry on the register as regards such guarantee deposits. The Commissioner may thereupon make such order as may be necessary for the payment out of such guarantee deposits of a sum equal to the portion of the advance so ascertained to have been repaid.**

Payment of guarantee deposits generally.

14. When there has been repaid on account of any advance a sum equal to the guarantee deposit, the accountant shall report the fact to the Commissioner, together with the particulars of the entry on the register. The Commissioner may thereupon make such order as may be necessary for the payment of the guarantee deposit, or any outstanding balance thereof.

Guarantee deposit may be placed to separate credit and invested.

15. If for any reason any sum payable in respect of a guarantee deposit under Rules 13 and 14 of this Order cannot be immediately paid to the person or persons entitled thereto, the Commissioner may order such sum to be paid to such credit as he may direct, and may make such order as may be just as to the investment thereof, and as to the payment of the dividends or interest thereon pending its payment out of Court to the person or persons entitled thereto.

Order XXIV.

Payment into Bank of Ireland under Section 14 *of the Land Law (Ireland) Act,* 1887.

Applicant to attend before examiner.

1. Before making any application under Section 14, Sub-section 1 of the Land Law (Ireland) Act, 1887, for payment of advances into the Bank of Ireland, the applicant or his solicitor shall attend before the examiner with the documents and other evidence upon which such application is grounded.

Report of examiner.

2. The examiner shall thereupon ascertain that all necessary preliminaries to the making of the advances have been complied with, and that the holdings could forthwith be vested in the purchasers, or the agreements for purchase fiated, and he shall issue a certificate or report to that effect, and shall state therein if

* Rule 13 is rescinded by Order XV., Rule 1 of Rules of 4th December 1903, *post* p. 534.

he has any reason to believe that the parties are not entitled *primâ facie* to carry out the agreements for sale, and any other matter which should be brought under the notice of the Commissioner.

3. The application to the Commissioner shall then be made on notice to all persons who have entered general appearances or appearances requiring notice of such an application, and such other persons as the examiner may direct, and shall be grounded upon the report of the examiner, the originating statement, the rulings on title, if issued, and any other evidence tending to show the nature and particulars of the vendor's estate in the lands, and the charges affecting the same. **Application to Commissioner.**

4. An order for payment into the Bank of Ireland shall not be made unless the vesting orders are ready for execution, or the agreements for purchase are ready to be fiated. **No order to be made until vesting orders or fiats are ready for execution.**

Order XXV.

Appointment of Trustees.

I.—*Trustees for the purposes of the Settled Land Acts,* 1882 *to* 1890.

1. Applications for the appointment of trustees for the purposes of the Settled Land Acts, 1882 to 1890, shall be made by motion on notice as in Form 27, with such modifications as the circumstances of the case may require.* **To be by motion on notice.**

2. The procedure shall otherwise be in accordance with the General Rules and Orders and practice for the time being regulating the procedure in similar applications to the Chancery Division of the High Court, in so far as such rules, orders, and practice may be applicable. **Procedure to be otherwise, as in Chancery Division.**

II.—*Appointment under Section* 66 *of the Landed Estates Court Act.*

3. Applications for the appointment of trustees under Section 66 of the Landed Estates Court Act shall be made by statement of facts as in Form 28, with such modifications as the circumstances of the case may require. The statement shall be fairly written on post paper with sufficient margin, shall be verified by the affidavit of the applicant, or, if the Commissioner so permit, by the affidavit of his solicitor, and shall be filed in the Registrar's Office.† **Applications to be by statement of facts.**

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* See Form 27, *post* p. 453.

† See Form 28, *post* p. 453, and see Sect. 66, Landed Estates Court Act, *ante* p. 113.

Documents to be lodged therewith.

4. Together with the statement there shall be lodged a copy of the instrument creating the trusts, and any consents, or other documents necessary to support the application. The statement and other documents shall be laid before the Commissioner for his directions.

Order XXVI.

Partition and Exchange.

Application to be in writing.

1. An application by either landlord or tenant for a partition, exchange, or division of land held by tenants in common, or rundale or intermixed plots, under Section 11 of the Purchase of Land (Ireland) Act, 1885, shall be in writing on foolscap paper with proper margin, and shall be verified by the affidavit of the applicant, and be filed in the Registrar's Office. The application shall state:—

The names and addresses of the several tenants of the land so held in common or rundale or intermixed plots.

The Ordnance Survey name and gross acreage of such land and the barony and county in which it is situate.

If the original letting was not a joint letting, when and how the holding came to be so held.

The terms of the original letting of such land by the landlord, and the amount of the gross yearly rent payable.

The names of the several tenants paying the said rent, and the proportions in which they pay it.

Appointment of surveyor.

2. On the lodgment of any such application the Commissioner may appoint one or more surveyor or surveyors to inspect the lands, and divide the same into convenient and separate holdings, to apportion the gross rent payable out of the entire lands on such apportioned holdings, and to state the names of the tenants of such holdings, and the apportioned rents to be thenceforth payable by them.

Lodgment of surveyor's report; notice thereof.

3. The surveyor's report and scheme for partition shall be lodged in the Registrar's Office, and notice thereof shall be given to the landlord, the several tenants, and all such other persons as the Commissioner shall direct, in Form 29.*

Confirmation of report.

4. If no application be made to the Commissioner within fourteen days from such notice, or within such further time as the Commissioner shall direct, to vary or amend the said report and scheme for partition, and if it shall appear expedient to the

* See Form 29, *post* p. 455.

Commissioner, the same shall stand confirmed and a final order for partition shall be made in accordance with such report and scheme or in accordance with any order amending the same.

5. No final order for partition, exchange, or division shall issue until the sale which necessitated such partition, exchange, or division, as the case may be, shall have been completed.

Final order not to issue until sale completed.

6. A draft of the order shall be prepared by the applicant, or his solicitor, and lodged with the examiner for settlement.

Draft of order to be lodged with examiner.

7. The draft order, when settled by the examiner, and approved by the Commissioner, shall be printed in such manner as the Land Commission may direct. The engrossment shall be sealed with the seal of the Land Commission, and then laid before the Commissioner for his signature.

Order to be printed, and signed by Commissioner.

8. A counterpart of the order shall be issued to the landlord, and to each tenant entitled to a share of the lands.

Counterpart to be issued to each person interested.

Order XXVII.

Specific Performance.

An application by a vendor or purchaser for a decree for specific performance shall be by motion on notice to the other party, and if such application be by the vendor, the notice of motion shall be served personally on the purchaser unless he be represented by a solicitor other than the vendor's solicitor, or unless the Commissioner shall otherwise direct.

Order XXVIII.

Change of Parties by Death, &c.

1. A person claiming to be entitled to have the proceedings continued in his name by reason of the death of the vendor, or transmission or change of his interest, shall, before applying to the Commissioner, obtain a report from the examiner upon his title to have the proceedings so continued in his name.

Report of examiner to be obtained when applying to continue proceedings.

2. If a purchasing tenant becomes divested of his interest in his holding by death, bankruptcy, assignment, or otherwise, after the agreement for purchase has been executed, but before the holding has been vested, or such agreement fiated, the person claiming to be entitled to the purchasing tenant's interest in the holding, or a solicitor duly authorised on his behalf, shall attend before the examiner to prove the title of such person, and that he

Transmission of interest of purchasing tenant by death or otherwise.

is in occupation of the holding; and thereupon the examiner may either himself take the direction of the Commissioner (such direction to be endorsed on the agreement for purchase) as to the person in whom the holding is to be vested, or he may direct a motion to be made on the subject.

Order XXIX.

Persons under Disability.

Service on guardian or next friend to be deemed good service.

1. The order appointing any person to act as guardian or next friend of a person under disability, shall be served on such guardian or next friend, and all notices and orders subsequently served upon such persons, shall be deemed to have been duly served upon the party so under disability.

Consent of married woman.

2. When any married woman, not entitled for her separate use, joins in or consents to any application to the Land Commission, the Commissioner shall before making an order be satisfied that such married woman is aware of the nature and effect of the application, and that she freely consents thereto, and for this purpose an appointment shall be made with the solicitor for her attendance before the Commissioner, for the purpose of being examined, or the Commissioner may, at his discretion, appoint some solicitor to make such examination, who shall for that purpose be furnished with a copy of the application; and the solicitor so appointed shall certify to the Commissioner that he has made such examination, and the result thereof, and his certificate shall be verified by affidavit.

Order XXX.

Motions and Orders.

I.—*Motions.*

Applications to a Commissioner.

1. Applications to a Commissioner shall be made to him in person or in such manner as each Commissioner shall from time to time prescribe.

Certificate of appearances to be produced at hearing.

2. In the case of a motion on notice, a certificate of the appearances entered in the matter must be produced at the hearing of such motion.

What notice to be given.

3. There shall be at least two clear days between the service of a notice of motion and the day on which the same is heard, and, if the notice be served outside the municipal boundary of the city of Dublin, there shall be at least four clear days.

4. If the application be made *ex parte*, the applicant shall, before moving the Commissioner, lodge with the registrar a docket stating the nature of the application, and referring to the documents, or other evidence, upon which the same is grounded. *Ex parte* motions.

5. The following applications when made shall be assigned to a Judicial Commissioner :— Applications to be assigned to a Judicial Commissioner.

(*a*) In reference to requisitions on title made by an examiner.

(*b*) For appointment of trustees.

(*c*) For a decree for specific performance.

(*d*) In reference to the apportionment, redemption, or satisfaction of superior interests, other than applications for the payment of the redemption money of quit or Crown rents, of rents or tithe rent-charges payable to the Land Commission, or fixed annual instalments payable in lieu of tithe rent-charge, or of land improvement or drainage charges.

(*e*) By an incumbrancer, an owner of a superior interest, or other person interested to vary or discharge an order conditionally sanctioning an advance or agreement for purchase as being prejudicial to the interests of the applicant.

(*f*) To continue proceedings in the name of a person claiming by reason of the death of the vendor, or transmission or change of his interest, when the examiner's report is against the granting of the application.

(*g*) Motions made by direction of an examiner in reference to the title to a holding when a purchasing tenant becomes divested of his interest therein before the completion of the purchase.

Provided always, that with a view to the prompt hearing of any such application, the Judicial Commissioner may at any time direct that any of such applications shall be assigned to the Commissioner before whom the proceedings in the matter are pending, or to such other Commissioner as he may appoint.

6. The following shall be side-bar orders :— Side-bar orders.

(*a*) To make a conditional order (other than an order for attachment) absolute, when no cause has been shown or the cause shown has been disallowed.

(*b*) To allow cause shown and discharge conditional order when no motion has been made to disallow the cause.

(*c*) For an order on any person to lodge deeds.

(*d*) For a writ of sequestration for disobedience to an order of the Court.

(*e*) For a writ of *fieri facias* to enforce payment of costs awarded by order.

(*f*) For an order to the sheriff to put a purchaser from the Land Commission into possession of the lands purchased subject as is provided by Order XLVIII.

II.—*Orders.*

Orders which may be entered on the allocation schedule.

7. Orders for payment or investment or for the sale of securities or other rulings of the Commissioner in reference to the allocation of the fund may be entered on the allocation schedule.

Orders which may be entered in ruling book.

8. Orders which are in the nature of directions to an officer of the Court to do, or to omit to do any act, or to act upon, or reject evidence tendered, or directions to the person having carriage of the proceedings as to the conduct thereof, shall be entered in the ruling book.

All others to be entered in order book.

9. All other rulings and orders save such as are signed by a Commissioner, or such as are directed by rule to be printed, shall be entered in the order book.

To be signed by registrar.

10. All orders shall, unless otherwise directed by rule, be signed by the registrar.

Registrar shall, if required, prepare order in conformity with any ruling.

11. The registrar shall, at the instance of any party interested, prepare an order in conformity with any ruling of a Commissioner entered upon the allocation schedule or ruling book.

Order XXXI.

Cause against Conditional Order.

Person showing cause to serve notice.

1. Any person desiring to show cause against a conditional order must enter an appearance, and serve on the vendor and the person on whose application such order was obtained, or their respective solicitors, a notice of cause referring to any affidavit or other document on which he relies.

Cause to be allowed unless motion made to disallow.

2. Unless the person at whose instance such order was obtained, shall, within the time specified in the conditional order, or within four days thereafter, serve a notice of motion to make the same absolute, the person showing cause may have a rule entered in the Registrar's Office allowing his cause; and on such rule being entered he may proceed to tax his costs of resisting such conditional order.

3. If no cause be shown within the time specified, or if the cause be disallowed, the solicitor for the person who obtained the order shall attend in the Registrar's Office to prove the services of the conditional order, and that no cause has been shown, or that the cause has been disallowed, and thereupon the registrar shall, except in the case of an order for attachment, proceed to make up the absolute order. Making conditional order absolute.

Order XXXII.

Evidence and Examination of Witnesses.

I.—*Evidence generally.*

1. The evidence of witnesses shall, unless there be reason to the contrary, be by affidavit; but any witness may by leave of the Commissioner be examined orally before the Commissioner. Evidence shall be by affidavit, or oral by leave of Commissioner.

2. All writs, records, pleadings, affidavits, and other documents that might be read and received in evidence in the High Court, may be read and received in evidence in the Land Commission; and office copies of all such writs and other records and documents shall be admissible in evidence to the same extent as the originals would be. Office copies of records may be received.

II.—*Examination of Witnesses.*

3. The depositions of witnesses examined orally shall be taken down in writing by the registrar or other officer of the Court, not ordinarily by question and answer, but so as to represent as nearly as may be the statement of the witness; provided that the Commissioner may order any party who shall produce any witness or witnesses for examination, to provide a competent shorthand writer, who shall be paid in the first instance by such party, to take down the evidence of such witness or witnesses under the direction of the Commissioner, and for the use of the Court; and the Commissioner shall make such Order as he may consider just as to the costs of providing such shorthand writer; and the transcript of the notes of such shorthand writer shall be lodged with the registrar, and any party interested may have a copy of the same on payment of the sum of three half-pence for every seventy-two words. Depositions of witnesses.

4. Any witness examined orally shall be subject to cross-examination and re-examination; and when any party to proceedings shall have filed an affidavit, whether made by himself, or by any Witnesses to be subject to cross-examination.

witness, such party, or witness, shall be subject to cross-examination and re-examination, and shall be bound to attend for the purpose of being so cross-examined, upon being served with notice to that effect two days before the time of such cross-examination if resident in Dublin or within ten miles thereof, or four days if resident elsewhere in Ireland, and upon tender to any such witness, other than the party himself, of his reasonable expenses; and such expenses shall be paid in the first instance by the person requiring such cross-examination.

Examination by commission.

5. Application to have a witness or witnesses examined by commission shall be made by motion on notice. The commission shall be in Form 30; shall be sealed with the seal of the Court, and signed by the registrar; and shall issue on such terms or conditions as to costs or otherwise as the Commissioner may think fit; and the examination shall in all respects be subject to the regulations for the time being in force for the examination of witnesses by commissions issuing out of the High Court, as if the Land Commissioner were the Judge, and the Court of the Land Commission were the High Court.*

III.—*Summonses for Attendance of Witnesses.*

Form of.

6. Summonses for the attendance of witnesses, and for the production of documents before the Land Commission shall be in Form 31 and shall be signed by the registrar.†

Service of: expenses.

7. The service of a summons shall be effected by delivering a copy thereof, and at the same time producing the original. The reasonable travelling expenses of the witness must be tendered when the summons is being served.

Punishment for disobedience to.

8. Any person wilfully disobeying a summons, or order for his attendance for the purpose of being examined or producing any document, shall be deemed guilty of contempt of Court, and may be dealt with accordingly.

Order XXXIII.

Affidavits.

Before whom to be sworn in Ireland.

1. Affidavits, affirmations, or declarations sworn or made in Ireland, may be sworn or made before any person authorised to administer oaths for the purposes of the High Court, or before

* See Form 30, *post* p. 455.

† See Form 31, *post* p. 456.

a justice of the peace for the county or borough in which the affidavit, affirmation, or declaration is sworn or made.

Before whom to be sworn out of Ireland.

2. Affidavits, affirmations, or declarations may be sworn or made in England or Scotland, or the Channel Islands, or the Isle of Man, or in any colony, island, plantation, or place under the dominion of Her Majesty in foreign parts, before any Judge, Court, notary public, or person lawfully authorised to administer oaths in such country, colony, island, plantation, or place, respectively, or before any British Ambassador, envoy, minister, chargé d'affaires, or secretary of embassy or legation, exercising his functions in any foreign country, or any British consul-general, consul, vice-consul, acting consul, pro-consul, or consular agent, exercising his functions in any foreign place in that country or place, and the Commissioners and other officers of the Land Commission shall take judicial notice of the seal or signature, as the case may be, of any of the aforesaid persons.

Preparation.

3. Every affidavit shall be drawn up in the first person, and shall be divided into paragraphs, and every paragraph shall be numbered consecutively, and as nearly as may be shall be confined to a distinct portion of the subject. The affidavit shall state the description and true place of abode of the deponent, and also what facts or circumstances deposed to are within deponent's own knowledge, and his means of knowledge, and what facts or circumstances deposed to are known to or believed by him by reason of information derived from other sources than his own knowledge, and what such sources are.

Jurat.

4. The time and place of swearing the affidavit shall be stated in the jurat, and all persons authorised to take affidavits for the Land Commission, shall certify in the jurat of every affidavit taken by them that they know either the deponent himself or some person named in the jurat who certifies his knowledge of the deponent. When an affidavit is sworn by any person who appears to the officer taking the affidavit to be illiterate or blind, the officer shall certify in the jurat that the affidavit was read in his presence to the deponent, that the deponent seemed perfectly to understand it, and that the deponent made his signature in the presence of the officer. No such affidavit shall be used in evidence in the absence of this certificate, unless the Commissioner is otherwise satisfied that the affidavit was read over to and appeared to be perfectly understood by the deponent.

Alterations to be authenticated.

5. No affidavit having in the jurat or body thereof any interlineation, alteration, or erasure shall without leave of the Commissioner, be filed, read, or made use of in any matter, unless the

interlineation or alteration (other than by erasure) is authenticated by the initials of the person taking the affidavit, nor in the case of an erasure, unless the words or figures appearing at the time of taking the affidavit to be written on the erasure are re-written and signed or initialled in the margin of the affidavit by the person taking it.

Commissioner may receive notwithstanding irregularity.

6. The Commissioner may, on such terms as he may think fit, receive any affidavit notwithstanding any defect or irregularity in the form thereof or in the jurat, and may direct a memorandum to be made on the document that it has been so received.

Not to be sworn before the vendor or solicitor for party.

7. No affidavit shall be sufficient if sworn before the vendor in the matter, his agent, or solicitor, or if sworn before the solicitor for the person on whose behalf the affidavit is to be used.

Not to be sworn before clerk or agent, &c., of solicitor for party.

8. Any affidavit which would be insufficient if sworn before the solicitor for a party to the proceedings, shall be insufficient if sworn before such solicitor's partner or clerk, agent or correspondent, or the clerk or partner of such agent or correspondent.

Order XXXIV.

Sequestration and Attachment.

Obedience to order may be enforced by attachment or sequestration.

1. The Commissioner may, to enforce obedience to any order cause a writ of attachment or sequestration to issue against any party in default.

I.—*Sequestration.*

In the case of disobedience to an order, writ of sequestration may issue.

2. Where any person is by any order directed to pay money into Court, or to do any other act within a limited time, and after due service of such order, refuses or neglects to obey the same according to the exigency thereof, the person prosecuting such order shall, at the expiration of the time limited for the performance thereof, be entitled, without obtaining any order for that purpose, to issue a writ of sequestration against the estate and effects of such disobedient person. Such writ shall have the same effect as a writ of sequestration in the Chancery Division of the High Court as heretofore had, and the proceeds of such sequestration may be dealt with in the same manner as the proceeds of writs of sequestration have heretofore been dealt with by the said Chancery Division.

Method of obtaining form of.

3. Any person entitled to issue a writ of sequestration under the preceding rule shall, before issuing the same, apply to the registrar to approve of one or more sequestrators, and to obtain

directions as to his or their security and accounting. On a certificate from the registrar of the approval of such person or persons the writ may issue directed to such person or persons in Form 32, and it shall be sealed with the seal of the Land Commission and signed by the registrar.

4. One sequestrator only shall be named in the writ, unless the Commissioner shall otherwise direct. One sequestrator shall be named.

5. Every sequestrator shall enter into security by recognisance or otherwise, as the Commissioner shall direct, and the amount and nature of such security shall be directed, and the securities approved of by the registrar, upon the application mentioned in Rule 3 of this Order, or by the Commissioner. A sequestrator shall not enter upon the execution of the writ until he has obtained a memorandum signed by the registrar, that he has duly perfected his security. Sequestrator to give security.

6. Every sequestrator shall be bound to account before the registrar, as shall be directed upon his appointment, or at any time by the Commissioner, and not less than once in every year, unless the Commissioner shall otherwise direct. Sequestrator to account.

II.—*Attachment.*

7. No writ of attachment shall be issued without the leave of the Commissioner, to be applied for on notice to the party against whom the attachment is to be issued. To be applied for on notice.

8. Every writ of attachment and order of committal for contempt shall be headed "Court of the Irish Land Commission — Land Purchase Acts," and, if issued in consequence of disobedience to an order, shall be entitled in the matter in which such order was made. The writ of attachment or order of committal shall be directed to the sheriff of the county where the party to be attached or committed resides or is to be found, or to any peace officer, or to such other person as the Commissioner may direct, and shall be sealed with the seal of the Land Commission and signed by the registrar. In the case of a committal order the order shall recite the particulars of the disobedience or other contempt occasioning its issue. Form of attachment or committal.

Order XXXV.

Questions of Law and Appeals.

1. When a Commissioner desires to submit a question of law for the hearing and determination of a Judicial Commissioner, he may by ruling refer the proceedings before him to a Judicial Commissioner Submission of question of law by a Commissioner.

for the purpose of having the question determined, or, in a case signed by him, state the question of law he requires to have determined; and he shall give such directions as to the service of notice as he may deem necessary.

Appeal on question of law: notice of.

2. An appeal from the decision of a Commissioner acting alone shall, if the appeal be on a question of law, be brought by notice of motion within fourteen days from the date of such decision. The notice shall state the name of the Commissioner whose decision is appealed against, and shall be served upon all parties directly affected by the appeal, and it shall not be necessary to serve parties not so affected.

Judicial Commissioner may direct notices to be served.

3. A Judicial Commissioner may direct notice of appeal, or an application to determine a question of law, to be served on all or any parties to the proceedings, or upon any person not a party, and in the meantime he may postpone or adjourn the hearing upon such terms as may be just; and he may give such judgment and make such order as might have been given or made if the persons served with such notice had been originally parties.

Requisition to have order of a Commissioner not made on question of law reconsidered by three Commissioners.

4. A requisition to have the order of a Commissioner not made upon a question of law reconsidered by a Judicial Commissioner and two other Commissioners shall be in Form 33, and shall be lodged in the Registrar's Office within fourteen days from the date of such order. The requisition shall be laid before a Judicial Commissioner who, if he thinks it desirable that the case should be reheard, shall direct a notice to be served as provided by Rule 2 of this Order.*

Amendment of notice of appeal.

5. Any notice of appeal may be amended at any time as a Judicial Commissioner may think fit. Additional evidence may be used on the hearing of the appeal or on the reconsideration of the order of a Commissioner when an order giving liberty to do so has been made on a special application for that purpose to a Judicial Commissioner.

Order XXXVI.

Sale by a Landlord to a Tenant in consideration of a Fine and a Rent-charge.

Form of agreement.

1. An agreement between landlord and tenant for the sale and purchase of a holding in consideration of the tenant paying a fine, and engaging to pay the vendor a rent-charge, with application for

* See Form 33, *post* p. 457.

an advance may be in Form 10, with the following addition after "fee-simple" in clause 1 of the agreement, viz.:—"in consideration "of a fine of £ , and of a perpetual yearly rent-charge of "£ , which the said tenant hereby engages to pay." *

2. An application for a further advance for the redemption of the rent-charge shall be by agreement between the owner of the rent-charge and the registered owner of the holding for the sale and purchase of the rent-charge, with application for an advance, and shall be in such form as the Land Commission may from time to time direct.

Application for further advance for redemption of rent-charge.

Order XXXVII.

Purchase by a Tenant from the Land Judges.

1. The application by a tenant for an advance to enable him to purchase his holding from the Land Judges shall be in Form 34, or such other form as the Land Commission may from time to time direct. The application shall be on stout writing medium paper, and endorsed with the county, title of the matter, and tenant's name, and shall be signed or verified by the tenant or by some person acting under a power of attorney from him. The application shall be prepared in accordance with the directions in that behalf annexed to the Form.†

Form of application.

2. With such application there shall be lodged a copy of the Court rental.

Rental to be lodged with application.

3. If a number of tenants on the same estate are purchasing, the applications should, when practicable, be all lodged together, and may be lodged by the person having carriage of the proceedings before the Land Judges.

All applications on one estate should be lodged together.

Order XXXVIII.‡

Purchase of Estates by the Land Commission for Re-sale, and Negotiations of Sales by the Land Commission.

1. *No application to the Land Commission to purchase an estate the subject matter of proceedings before the Land Judges for re-sale to the tenants shall be entertained unless a Land Judge shall certify that sales to the occupying tenants cannot conveniently be effected unless the Land Commission purchase such estate.*

Application to Land Commission to purchase estate from Land Judges not to be entertained without the certificate of a Land Judge.

* See Form 10, *post* p. 432. † See Form 34, *post* p. 458.

‡ Order XXXVIII. is rescinded by Order XVI. of Rules of 4th December 1903, *post* p. 534.

Documents to be lodged.

2. *The person making the application shall lodge in the Agreements for Purchase Office a copy of the Court rental and undertakings by the several tenants to buy their respective holdings in Form* 35, *specifying the prices they propose to pay and the amounts of the advances they require.*

Sales to the Land Commission by landlord.

3. *When a landlord desires to sell his estate to the Land Commission for the purpose of re-sale to the tenants, and has lodged an originating statement, he may make application to the Land Commission in Form* 36, *and he shall satisfy the Commissioner that a competent number of the tenants are able and willing to purchase their holdings, and shall obtain from a competent number of the tenants, undertakings to purchase their holdings, which may be in Form* 35, *with such variation as may be necessary.*

Applications by tenants to Land Commission to purchase estates.

4. *When the prescribed number of tenants on any estate desire that the Land Commission shall purchase an estate for re-sale to them, they shall lodge undertakings in Form* 35, *with such variations as may be necessary, and they shall also lodge such sum as the Commissioner may require, to cover the expenses of negotiation and valuation.*

Negotiation of sales by the Land Commission.

5. *When either landlord or tenant desires the sale to be negotiated and completed through the medium of the Land Commission, an application for that purpose may be made in the Agreements for Purchase Office, and the Commissioner may entertain the application, provided the party applying undertakes to pay the necessary expenses of such negotiation.*

Order XXXIX.*

Sales under Section 40 *of the Land Law (Ireland) Acts,* 1896.

Matter to be referred to Commissioners in rotation.

1. Where a request is issued to the Land Commission by the Land Judge, under the provisions of Section 40, Sub-section 1, of the Land Law (Ireland) Act, 1896, the matter shall be submitted to two Commissioners (other than the Judicial Commissioner) in such rotation as the Land Commission shall from time to time direct.

Inspection.

2. The subject of such request shall then be referred by such two Commissioners to an Inspector (being the Resident Inspector or one of the Assistant Commissioners) to report in such form and as to such matters as the Land Commission may from time to time direct.

Reference in case of difference.

3. In the event of two Commissioners not agreeing as to the report to be made to the Land Judge in pursuance of such request, the submission to them shall stand discharged, and thereupon the matter shall be submitted to two Commissioners (of whom one at

* Order XXXIX. is modified by Order XVII., Rule 1 of Rules of 4th December 1903, *post* p. 534.

least shall not be one of those to whom the matter was originally submitted) in such rotation as the Land Commission may from time to time direct; and such two Commissioners may act on any report of an inspector in the matter already made, or may require such further inspection or report as to them shall seem fit.

Power to transfer under special circumstances.

4. Where owing to special circumstances it may appear desirable, the Judicial Commissioner may transfer the matter from the Commissioners to whom under Rule 1 hereof it would stand referred to such other two Commissioners as he shall think fit.

Order XL.

Preliminary Expenses.

If it shall appear to the Commissioner necessary to make a survey or a preliminary inquiry in respect of any application, he may, before entertaining it, require the applicant to lodge such sum as he may consider sufficient to cover the reasonable expenses of such survey or inquiry; and the Commissioner may require such statements, rentals, or other documents to be furnished and verified, as he may think fit.

Order XLI.

Proceedings under the Redemption of Rent (Ireland) Act, 1891.

Application to be by originating notice: service of.

1. An application by a lessee or grantee to redeem his rent pursuant to Section 1 of the Redemption of Rent (Ireland) Act, 1891, or, in the alternative, to be deemed a tenant of a present tenancy and to have a fair rent fixed shall be made by originating notice on foolscap paper in Form 37, which shall bear an impressed stamp of the value of 1s., and shall be served upon the lessor or grantor in the manner provided by the rules in force for the time being in relation to proceedings under the Land Law Acts as regards the service of such notices upon landlords. When such notice shall have been served, the original thereof, with the service or services endorsed thereon, shall be lodged in the Land Commission.*

Consent to redemption.

2. The lessor or grantor may within two months from the service on him of the originating notice, lodge in the Land Commission a consent to such redemption, on stout writing medium paper in Form 38; and he shall transmit a notice in Form 39 of the lodgment of such consent, by registered letter, addressed to the lessee or grantee at the postal address stated in the originating notice, or, if the lessee

* See Form 37, *post* p. 460.

or grantee be represented by a solicitor, to such solicitor at his registered place of business.*

Reference to a Commissioner.

3. The originating notice and consent shall be referred to such Commissioner, and in such rotation as the Land Commission may from time to time direct: provided that all originating notices and consents in which the same lessor or grantor is named shall be referred to the Commissioner to whom the first of such originating notices and consents shall have been referred; and provided that if a vendor has lodged an originating statement, all originating notices and consents in which he shall be named as lessor or grantor shall be referred to the Commissioner to whom such statement stands referred, and all subsequent proceedings shall be had in the matter commenced by the lodgment of such statement. The proceedings under every originating notice and consent shall be subject to transfer from one Commissioner to another on the fiat of the Judicial Commissioner as in the case of proceedings under an originating statement.

Proceedings towards obtaining conditional order for redemption.

4. When the lessee or grantee receives notice of the lodgment of a consent to the redemption he shall lodge in the Agreements for Purchase Office a map of the holding and evidence of area in accordance with the Rules as to maps to be lodged with agreements for purchase, in so far as such Rules are applicable, and a certificate of the tenement valuation, unless these shall have been already lodged by the lessor or grantor. The lessee or grantee shall then enter the application for hearing before the Commissioner upon notice to the lessor or grantor, stating the affidavits and other documents by which he intends to support his application. If the Commissioner is of opinion that the lessee or grantee is *primâ facie* entitled to have his rent redeemed, he may make a conditional order for its redemption subject to the general rules applicable to the case being complied with.

Originating statement and title.

5. Within one month from the date of such order the lessor or grantor shall lodge an originating statement and abstract of title, unless the holding be comprised in an originating statement and abstract of title already lodged; and the lessee or grantee shall furnish the examiner with such evidence of his title to the holding as may be required, and for that purpose he, or his solicitor, shall attend before the examiner and take his directions.

Application for an advance.

6. The lessee or grantee may, within fourteen days from the date of the conditional order for redemption, lodge an application for an advance of the whole or any portion of the redemption money, which

* See Forms 38 and 39, *post* pp. 461 and 462.

application shall be on foolscap paper in Form 40; and shall be verified by the affidavit of the lessee or grantee.*

Notification to incumbrancers and others interested

7. If a notice of the filing of the originating statement has been served, the conditional order for redemption shall be notified in the same manner as is prescribed for the notification of the conditional sanction of sales. If the originating statement only comprises the lessee's or grantee's holding a notice in Form 41 shall be substituted for the notice of filing.†

Proceedings towards fixing fair rent in event of consent not being lodged or of delay.

8. If the lessor or grantor does not lodge a consent to the redemption within the prescribed time, or if the Commissioner makes an order declaring that the lessor or grantor has caused unreasonable delay in carrying the redemption into effect, the originating notice shall be dealt with as an application by the lessee or grantee to be deemed a tenant of a present tenancy, and have a fair rent fixed; and all subsequent proceedings shall be had thereon as if the originating notice had been served by a lessee under the Land Law Acts; and the lessee or grantee shall, if the Poor Law valuation of the holding is not under £10, within twenty-one days from the expiration of the time within which the consent might have been lodged, or from the making of such order as aforesaid, serve upon the lessor or grantor the particulars of any improvements in respect of which evidence is intended to be produced, or which are intended to be relied on by the lessee or grantee as having been made by him or his predecessors in title, with the dates at which the same were made, according to the best of the lessee's or grantee's knowledge or belief. The Court may, on special grounds, make an order that particulars shall be given when the valuation is under £10.

Order XLII.

Entitling and Filing of Documents.

Entitling.

1. All statements, notices, orders, affidavits, consents, undertakings, certificates and other documents for the purpose of any motion or proceeding, including proceedings for redemption under the Redemption of Rent (Ireland) Act, 1891, shall, unless otherwise directed by Rule, be headed "Court of the Irish Land Commission—Land Purchase Acts," and be endorsed with the record number, and shall be entitled "In the Matter of the Estate of

* See Form 40, *post* p. 463.

† See Form 41, *post* p. 464.

A.B., a Vendor of Land," or, if the vendor or vendors be a trustee or trustees for sale or with power of sale, "In the Matter of the "Estate of *A.B.* and *C.D.*, trustees for sale (*or*, with power of sale) "under the will dated of *E.F.*, deceased (*or*, of "the estate of *E.F.* under Indenture dated), "Vendors of Land."

Filing.

2. All affidavits, consents, undertakings, and notices shall be fairly written or printed on foolscap paper, with sufficient margin, and filed in the Registrar's Office.

Order XLIII.

Certified Copies and Production of Documents.

Certified copies.

1. Copies of affidavits or of statements of facts made by the parties filing the same shall be compared and certified free of charge, if they are lodged along with the originals and are fairly and accurately written. Save as aforesaid, certified copies of affidavits, orders, and other documents filed or lodged in the Land Commission shall be made in the office and certified by an officer of the proper department. Such copies shall (save where otherwise provided) be charged for at the rate of three half-pence per folio of seventy-two words; provided that the minimum charge shall be threepence. Copies of agreements for purchase and of inspectors' reports shall be furnished at a uniform charge of 1s. each. All payments for copies shall be denoted by Land Commission stamps.

Copies of certain documents not to issue without leave.

2. No certified copy shall be issued without the leave of a Commissioner of any abstract of title or document connected therewith, or of any conveyance to a tenant, or vesting order, nor shall a certified copy of an agreement for purchase between vendor and purchaser be issued without the like leave except to the vendor or purchaser or their respective solicitors.

Production of records in other courts.

3. If any person requires the production of any deed or document in the custody of the Land Commission on the trial of any action, or the hearing of any civil bill, cause, or matter, or in any other legal proceedings, civil or criminal, and it is necessary that an officer of the Land Commission should attend to produce the same, application should be made to a Commissioner. The secretary, or, in his absence, the keeper of the records, shall arrange what officer shall attend.

Order XLIV.

Solicitors.

1. Solicitors shall attend in person on the following occasions:— To attend in person for certain business.

(*a*) On all motions before a Commissioner.

(*b*) When discharging requisitions on title before an examiner.

(*c*) On the settlement and vouching of allocation schedules.

(*d*) When applying to an examiner for directions, or for a certificate, or report.

2. In any of the above cases, however, when a solicitor is unavoidably absent, he may be represented by his Dublin agent, being a registered solicitor, or by his own or his Dublin agent's registered apprentice, or competent registered clerk. May be represented by Dublin agent or registered clerk.

3. For the purposes aforesaid, any solicitor desirous of employing an apprentice or clerk for transacting business, shall sign a certificate, stating the name of such apprentice or clerk, and that he is a fit and competent person to transact such business, and undertaking to be responsible for the acts of such apprentice or clerk in the ordinary transaction of business. Such certificate shall be in Form 42, and on being produced to the keeper of records the same shall be entered in a book to be called "The Clerk's Registry Book," and such apprentice or clerk shall be considered as the representative of the solicitor for the purpose of the proceedings until the same shall be revoked by such solicitor; such revocation shall be entered in "The Clerk's Registry Book." Registered apprentice or clerk.

Every solicitor shall be responsible to the Court for the act of his registered apprentice or clerk in the ordinary transaction of business.

Every registered apprentice or clerk shall be bound, if called upon so to do by any officer of the Court, to produce a certificate of his registration, signed by the keeper of records in Form 43.*

4. Any solicitor may be suspended or prohibited from practising before the Land Commission by order of a Commissioner. Suspension of solicitors.

Order XLV.

Delay in Conduct of Proceedings.

1. No agreement for purchase shall be withdrawn without the leave of the Commissioner; nor shall the several proceedings therein be stayed or delayed beyond the time at which the same Duty of person having carriage of proceedings to prosecute same.

* See Forms 42 and 43, *post* pp. 465 and 466.

respectively might be taken without the sanction of the Commissioner; and it shall be the duty of the person having the carriage of any proceedings or his solicitor to prosecute the same with due diligence and effect, according to the course of the Court, and to take the Commissioner's directions upon any cause of delay which may arise.

May be summoned to explain delay.

2. The Commissioner shall from time to time investigate the state of each matter and the proceedings therein; and if any case appears not to have been prosecuted with due diligence, the person having the carriage of the proceedings or his solicitor shall be required by notice in writing to attend before the Commissioner to explain the reason of the delay. The Commissioner may, if he think fit, transfer the carriage to some other party interested, or may dismiss the proceedings, and in either case may make such order as may seem right as to costs, and may order the transfer of all papers and documents connected with the case.

Order XLVI.

Costs.

Commissioner has power to give and withhold.

1. The Commissioner shall have full power and discretion as to the giving or withholding of costs and expenses, and as to the persons by whom, and the funds out of which the same shall in the first instance, or ultimately be paid, repaid, or borne, and may apportion the same amongst such parties, and in respect of interest, rents, or income, and principal, or corpus, as they shall think fit.

Expenses of negotiating sales.

2. When preliminary expenses have been incurred in the negotiation of the terms of sale, the Commissioner may, if he thinks fit, allow as part of the costs in the matter such sum to cover the expenses of such negotiations as he shall consider reasonable.

Commissioner may award gross sum in lieu of taxed costs.

3. In all cases in which the Commissioner shall award costs to any party, he may by order direct payment of a sum in gross in lieu of taxed costs, and also direct by and to whom such sum in gross shall be paid.

Costs to be taxed in accordance with Part I. of schedule of fees, and on notice.

4. *In the absence of any agreement to the contrary between a solicitor and his client, the costs incurred in the course of proceedings in the Land Commission under the Land Purchase Acts, shall be taxed according to Part I. of the schedule of fees, in the appendix hereto; such costs shall, unless the proceeds of the sales be paid into the High Court, be taxable by the solicitor to the Land Commission on notice to such persons*

*as the examiner shall certify. The certificate of such solicitor shall be final if not varied by the Commissioner.**

5. The costs of any proceeding which is delayed beyond the time limited therefor by any rule or order shall not be allowed on taxation without the direction of the Commissioner.

Costs of delayed proceeding not to be allowed except by order.

6. No costs shall be allowed in respect of the service or publication of any notice, order, or other document, where the copy served or published does not correspond with the original.

If document served be inaccurate no costs to be allowed.

7. No costs of a supplemental originating statement, or of the amendment of an originating statement shall be allowed without the direction of the Commissioner.

No costs of supplemental originating statement or of an amendment to be allowed except by order.

8. The examiner shall certify on the back of the abstract of title whether the whole, or any and what portion of the costs thereof should be allowed; and such allowance shall (unless otherwise expressed in the certificate) refer as well to the readings as to the abstract itself. The officer taxing such costs shall have regard to such certificate unless it be varied by the Commissioner. The costs of a supplemental abstract of title shall be taxed as if the additional matter had been embodied in the original abstract, unless the examiner certifies that separate costs are to be allowed.

Costs of abstract of title to be certified for.

9. If the costs of any affidavit or other document used for the discharge of requisitions on title, or in proof of services, publications, or postings, are to be allowed on taxation, the examiner, or other officer whose duty it shall be to read such affidavit or other document shall so certify on the back thereof.

Costs of affidavits, &c., used for title or to vouch services, &c.

10. *It shall be the duty of the examiner when setting the draft vesting order, or certifying that the agreement for purchase may be fiated, to disallow the whole or some portion of the costs of any agreement for purchase which he considers has not been prepared with reasonable accuracy, care, and skill; and the taxing officer shall have regard to the examiner's ruling unless the same be varied by the Commissioner.**

Costs of agreements for purchase may be disallowed.

11. Except by direction of the Commissioner, no costs shall be allowed on any application for the apportionment of a quit or Crown rent or impropriate tithe rent-charge, unless the examiner has certified that an apportionment is necessary.

Costs of apportionment of quit and Crown rent and tithe rent-charge.

12. Counsel's fees shall not be allowed on the taxation of costs without the direction of the Commissioner.

Counsel's fees.

13. Every owner of a superior interest, and every incumbrancer shall have with his demand his costs properly incurred (including the costs of proving his demand), unless the Commissioner shall otherwise direct.

Costs of owners of superior interests and incumbrancer.

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* Rules 4 and 10 are rescinded by Order XX., Rule 1 of Rules of 4th December 1903, *post* p. 535.

Approval of agreement on behalf of tenant.

14. When a purchasing tenant desires that his agreement for purchase shall be approved of by a solicitor on his behalf, such solicitor shall be entitled to charge the tenant for such approval, including all attendances and perusals incident thereto, a fee of 10s. 6d. where the purchase money shall not exceed £500, and a fee of £1, 1s. where the purchase money exceeds £500.

Costs of vesting orders in sales contracted before 15th August 1896.

15. *The costs of vesting orders in proceedings to which the provisions of Part III. of the Land Law (Ireland) Act,* 1896, *as to a vesting order do not apply and in which more than one holding shall be vested by a single order shall be taxed in accordance with Part II. of the said schedule of fees, and it shall be the duty of the examiner to disallow the whole, or some part of the costs of any vesting order the draft of which shall not have been prepared with reasonable care and skill. The taxing officer shall have regard to any ruling or certificate of an examiner as to costs endorsed upon a draft vesting order, unless the same shall have been varied by the Commissioner.*

*If in any matter, by reason of the vendor or his solicitor not having exercised due diligence in the collection of interest on purchase money, or conduct of the proceedings, more vesting orders are lodged than would otherwise have been necessary, the costs of such additional vesting orders shall be taxed as if the holdings had been included in the first vesting order made in the matter; provided that if the delay shall have been caused by the default of the vendor, the solicitor shall be entitled to be paid the difference between the reduced costs and the full costs by the vendor, or out of any portion of the proceeds of the sales payable to him. It shall be the duty of the examiner to certify on the drafts of such additional vesting orders whether the full costs are to be allowed or not, and whether any costs are to be chargeable against the vendor personally.**

Order XLVII.

Proceedings for Recovery of Costs.

Fi. Fa. may issue.

1. In every case in which the Court shall award costs to be paid by any person, the person to whom such costs shall have been awarded or his solicitor may, on application to the registrar, obtain a writ of *fieri facias* to enforce payment of such costs in Form 44.†

Documents to be produced on application.

2. The person so applying must produce to the registrar the order awarding the costs, the certificate of their taxation unless they shall have been measured by the Court, and a certificate by the

* Rule 15 is rescinded by Order XX., Rule 1 of Rules of 4th December 1903, *post* p. 535.
† See Form 44, *post* p. 466.

solicitor for the applicant or by the applicant that the costs have been demanded and have not been paid.

3. A sum of ten shillings and sixpence may be added to such costs for the costs of and incident to the issue of the writ. Costs of the writ.

Order XLVIII.

Order to Sheriff to put Purchaser into Possession.

1. When a holding is sold by or at the suit of the Land Commission, the purchaser may at any time within one month after the execution of his conveyance or vesting order obtain by side-bar motion an order for the sheriff to put him in possession of such lands or any part thereof upon production to the registrar of an affidavit in Form 45. A purchaser requiring an order for possession after the expiration of the said period must apply to the Commissioner for such order. The order may be in Form 46.* Side-bar order for possession.

2. The Commissioner may, if he think fit, make an order for possession before the execution of the conveyance or vesting order to the purchaser, or notwithstanding that the purchaser shall not have made any demand of possession. Order for possession may be made before conveyance or vesting order.

Order XLIX.

Application that Annuity be not Reduced at end of Decade.

The application by the proprietor of a holding charged with an annuity that the annuity payable during the ensuing decade shall not be reduced shall be in writing addressed to the Secretary of the Land Commission, and shall be accompanied by the receipt for the last payment of the annuity. Such application shall be made not less than one month prior to the end of the current decade. Application that annuity be not reduced.

Order L.

Retention of Land Certificate by Land Commission.

1. The lodgment with the Land Commission of an application for an advance shall imply a consent by the applicant that the land certificate issued on the first registration of the purchaser's ownership of the holding, and any further or other land certificate issued Lodgment of application for advance to imply consent to retention of land certificate.

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* See Forms 45 and 46, *post* p. 467.

in substitution therefor on transfer or transmission of the interest in the holding, shall be delivered by the registering authority to the Land Commission and retained by them so long as any money remains due in respect of the purchase annuity.

Copy to be issued to owner.

2. A copy of any land certificate so retained shall be issued by the Land Commission free of charge to the registered owner of the holding.

Order LI.

Letters on Official Business.

Letters on official business.

All letters on official business other than letters to the solicitor of the Commission, shall be addressed to the Secretary, Irish Land Commission, Dublin, and not to a Commissioner or other officer of the Land Commission.

APPENDIX.

Form 1.

Originating Statement.

Court of the Irish Land Commission.

Land Purchase Acts.

Record No.

In the matter of the estate of *A.B.*, a vendor of land.

The statement of the said *A.B.* of in the county of

Sheweth:

If there are more vendors than one their respective estates and interest must be specified.

1. That the said *A.B.* is owner of the lands described in the First Schedule hereto, which lands are held by the tenure therein stated, and that he is now and has been in possession of and in receipt of the rents and profits of the said lands since the year 18 .

Variation where the Vendor is Tenant for Life.

[1. That the said *A.B.* is owner as tenant for life of the lands described in the First Schedule hereto, which lands are held by the tenure therein stated, and that he is now and has been in possession of and in receipt of the rents and profits of the said lands since the year 18 .]

That of is entitled to the next estate in the said lands in remainder expectant upon the determination of the said life estate.

That of and of are trustees *with power of sale of the said lands* under the (*a*) dated the day of 18 (*b*).

(*a*) Settlement or will.
(*b*) Here describe instrument.

[*If there is no power of sale, and the trustees were appointed for the purposes of the Settled Land Acts,* 1882 *to* 1890, *state so.*]

Variation where the Vendors are Trustees for Sale.

[1. That the said *A.B.* and *C.D.* are owners as trustees for sale of the lands described in the First Schedule hereto, which lands are held by the tenure therein stated, and that of is now and has been in possession of and in receipt of the rents and profits of the said lands since the year 18 , and that the persons beneficially entitled to the proceeds of the sale thereof are (*c*).]

(*c*) Here state names and addresses, and as far as possible the respective shares of the parties.

Variation where the Vendors are Trustees with power of Sale.

[1. That the said *A.B.* and *C.D.* are trustees with a power of sale of the lands described in the First Schedule hereto with the consent in writing of *E.F.* of in the county of , which lands are held by the tenure therein stated. That the said *E.F.* is owner as tenant for life (*or otherwise*) of the said lands, and has been in possession of and in receipt of the rents and profits of the said lands since the year 18 . That of is entitled to the next estate in the said lands in remainder expectant upon the determination of the said life estate.]

Variation where the Vendor is a Mortgagee in possession with power of Sale.

[1. That the said *A.B.* is mortgagee in possession with power of sale of the lands described in the First Schedule hereto under an indenture of mortgage dated the day of 18 , from *C.D.* to the said *A.B.*, which lands are held by the tenure in the said Schedule stated. That the said *A.B.* entered into possession of the said lands as mortgagee on the day of 18 , and has so continued to the present time. That *E.F.* of in the county of , is entitled to the equity of redemption in the said lands under the said indenture of mortgage.]

2. That the said *A.B.* became entitled as such owner as aforesaid under the dated the day of 18 (*d*).

(*d*) Here state when and under what instrument or how he became entitled; a copy of the instrument must be lodged if required.

3. That the said *A.B.* has set forth in the said First Schedule the particulars of all superior interests as defined by Section 31 of the Land Law (Ireland) Act, 1896 [save such rent-charges and annuities as are incumbrances on the lands and are set forth in the Second Schedule hereto] which he knows, or believes, to affect the said lands, and, so far as the same are known to him, the dates of, and parties to the instruments (if any) creating such superior interests, and the names and addresses of the persons entitled thereto.

Variation if there are no Superior Interests.

[3. That there are no superior interests as defined by Section 31 of the Land Law (Ireland) Act, 1896, affecting the said lands.]

4. That all the charges and incumbrances [other than the charges hereinbefore referred to] affecting the said lands are fully set forth in the Second Schedule hereto.

Variation if the Lands be Unincumbered.

[4. That there are no charges or incumbrances [other than the charges hereinbefore referred to] affecting the said lands.]

5. That there are not any proceedings pending in any Court of Justice in relation to the said lands or any part thereof or to the receipt of the rents and profits thereof, and that no person interested therein is an infant, idiot, lunatic, or married woman save (*e*).

(*e*) Here state the names of persons (if any) excepted, and the names and addresses of, as the case may be, the guardian of infant, committee of lunatic, or husband of married woman.

6. That the said *A.B.* contemplates selling the said lands or some parts thereof under the Land Purchase Acts, in fee simple, freed and discharged from all superior interests and incumbrances save (*f*) (*and requires the title to the residue of the said lands to be investigated for purposes of registration under the "Local Registration of Title (Ireland) Act*, 1891").

(*f*) Here insert the particulars of any superior interests which it is intended the sale shall be made subject to.

[7. That *C.D.* of is the land agent of *A.B.* and in receipt of the rents and profits of the said lands on his behalf, and the said *A.B.* is desirous that any interest payable under Section 35, Sub-section (2) of the Land Law (Ireland) Act, 1896, shall be paid to the said *C.D.* (*g*).]

(*g*) To be inserted when vendor desires interest under agreements to be paid to agent.

8. And the said *A.B.* desires that this statement shall be received by the Irish Land Commission as the basis for carrying out the said intended sales, and that he may have such further aid and relief incidental to such sales as the nature of the case may require, according to the judgment of the Court.

Signature of vendor,

First Schedule referred to in the foregoing Statement.

Denominations (Ordnance Survey Names), Barony and County.	Quantity of Land, Statute measure, in each denomination.	Total Number of Tenants on each denomination.	Total of Rents payable by Tenants on each denomination.	Tenement Valuation of each denomination.	Tenure by which the lands are held and particulars of Superior Interests (viz. any rent, fees, duties, or services, payable or to be rendered in respect of the lands, and any estates, exceptions, reservations, covenants, conditions, or agreements contained in any Fee-farm Grant or other Conveyance in Fee, or Lease under which the lands are held, and any reversion or estate expectant on the determination of such lease, or of any term of years for which the lands are held), and dates of and parties to the instruments creating such Superior Interests, and names and addresses of the persons entitled thereto.	Observations.
	A.R.P.		£ s. d.	£ s. d.		

NOTE.—The 2nd, 3rd, 4th, and 5th columns must be accurately totted.

Signature of vendor,

If the root of title to any denomination is a conveyance or declaration of title by the Incumbered Estates Court, Landed Estates Court, or Land Judges' Court, the date of such conveyance or declaration of title should be given in the observation column. If the lands are not held in fee simple, the date and particulars of the grant or lease under which they are held should be given. If any denomination cannot be sold under the Land Purchase Acts by reason of the vendor not being the immediate landlord of the occupying tenants, it is desirable that there should be a statement in the observation column to that effect, and to the effect that the lands in question are excluded from the proceedings: otherwise they will be included in the public notices.

Second Schedule referred to in the foregoing Statement.

Date of Incumbrance.	Name and Address of Incumbrancer.	Particulars of Incumbrance.	Sum due for Principal.	Arrears of Interest or Annuity to last gale day.	Special circumstances (if any) relating to each Incumbrance.
			£ s. d.	£ s. d.	

NOTE.—The 4th and 5th columns must be accurately totted.

Signature of vendor,

This schedule should state concisely the manner in which the charge was created, whether by will, settlement, mortgage, judgment, or otherwise, and by whom. If the incumbrances have been consolidated, this should be stated, and any special circumstances, such, for example, as the terms on which an incumbrance may be paid off or an annuity redeemed, or any exemption of a portion of the lands from the whole or any portion of the incumbrance, or the liability of any other property or of any person to pay any incumbrance, whether in exoneration of the lands or otherwise. If there are incumbrances on the life estates they should be stated separately, thus:—first part, incumbrances on the fee; second part, incumbrances on the life estate.

Affidavit.

I, *A.B.*, the vendor, make oath and say:

That I have read the foregoing statement and the schedules annexed thereto, and I say that the said statement and schedules are true and correct in every particular to the best of my knowledge, information, and belief; and I further say that there is not any person to my knowledge or belief who has or claims any estate, right, title, or interest in the said lands or any part thereof save as in the said statement is set forth.

Sworn, &c.

FORM 2.

Notice of the Filing of an Originating Statement.

[Heading and title as before.]

Sir,—Take notice that on the day of 189 , an originating statement was filed on behalf of the said vendor affecting lands in the barony of and county of , which it is contemplated selling under the Land Purchase Acts in fee simple, freed and discharged from all superior interests as defined by Section 31 of the Land Law (Ireland) Act, 1896, save (*a*) and from all other charges and incumbrances, and that your name appears in such statement as entitled to [*here state the nature of the superior interest, charge, incumbrance, or other estate or interest to which the person is entitled*], and that your postal address is stated to be to which address will be sent, as long as the Commissioner shall consider it necessary for the due protection of your rights, a notification of the conditional sanction of all sales of the said lands to the tenants, and such other notices in reference thereto as the Commissioner may direct. And further take notice

(*a*) Here insert the particulars of any superior interests which it is intended the sale shall be made subject to.

that if no application to the contrary be made by you, by motion to the Commissioner upon notice to me, within fourteen days from the date of such notification, the sales will be completed in due course without further notice to you.

Dated this day of 189 .

Solicitor for the vendor,

[Registered address.]

To .

N.B.—Should your name or address be incorrectly stated above, you should fill up the annexed form and transmit it at once to the Land Commission. Should you desire the notification to be sent to a solicitor on your behalf, or that you should have notice of all further proceedings, you should instruct your solicitor to enter an appearance for you, and have the notifications sent to him.

[Heading and title as before.]

I request that you will have the register amended as follows, in respect of the matters referred to in the notice of filing of originating statement served on me.

Name at present registered.	Name of person to whom notifications are to be sent.
Postal address at present registered.	Postal Address within the United Kingdom.
	If above person be an agent, state name of principal.

Dated this day of 189 .

(Signature.)

To the Secretary,
Irish Land Commission,
24 Upper Merrion Street, Dublin.

FORM 3.

General Notice to Claimants.

[Heading and title as before.]

Whereas an originating statement has, on the day of 189 , been filed affecting the lands of containing statute measure or thereabouts, situate in the barony of and county of . Let all persons take notice that the said vendor contemplates selling

the said lands or some part thereof under the Land Purchase Acts, and that such sale will be made in fee simple freed from and discharged from all superior interests, as defined by Section 31 of the Land Law (Ireland) Act, 1896, save (*a*) and from all other charges and incumbrances. And let all persons having claims on the said lands take notice that they may enter appearances in the said matter for the purpose of being served with notice of the proceedings.

(*a*) Here insert the particulars of any superior interests which it is intended the sale shall be made subject to.

Dated this day of 189 .

, Examiner.

Solicitor for the vendor,
Dublin.

FORM 4.

Notice and Requisition to Quit Rent Office.

[Heading and title as before.]

Take notice, that an originating statement has been this day filed affecting the lands specified in the schedule hereto, and that sales of such lands may be carried into effect by vesting order and made discharged from all superior interests, as defined by Section 31 of the Land Law (Ireland) Act, 1896. I have to request that you will be good enough to state, for the information of the Court, on the duplicate sent herewith, whether the particulars of the rents payable to Her Majesty in respect of such lands are correctly specified in the said schedule, and return the same to the registrar at your earliest convenience.

Dated this day of 189 .

Solicitor for the vendor.

To the Superintendent of the Quit Rent Office,
Dublin.

On behalf of the Commissioners of Her Majesty's Woods Forests and Land Revenues.

Schedule referred to in the foregoing Notice.

Denominations (Ordnance Survey Names), Barony, and County.	Area, Statute Measure.	No. of Ordnance Sheet on which shown.	Quit or Crown Rent paid.	Name of Original Crown Patentee, and Date of Patent.	Tenure by which Lands are held by Vendor.	Name of Person in Receipt of Head Rent, if any be payable.	Date of Conveyance or Declaration of Title (if any) by Incumbered Estates, Landed Estates, or Land Judges' Courts, name of Grantee, and title of matter in which such Conveyance or Declaration was made.
	A. R. P.		£				

NOTE.—All the columns of the Schedule must be filled in, and should correspond with the originating statement in so far as the particulars required are therein stated. If the particulars to be specified in the 5th column are not known, the words "not known" should be inserted therein. If there be no head rent payable, or if the lands have not been the subject of a conveyance or declaration of title by the Incumbered Estates, Landed Estates, or Land Judges' Court, the word "none" should be inserted in the 7th and 8th columns respectively.

FORM 5.

Notice and Requisition to Board of Public Works.

[Heading and title as before.]

Take notice, that an originating statement has been this day filed affecting the lands specified in the schedule hereto, and that sales of such lands may be made discharged from all superior interests, as defined by Section 31 of the Land Law (Ireland) Act, 1896.

I have to request that you will be good enough to state, for the information of the Court, whether the lands are situate within a drainage district, and also the particulars of such charges (if any) as affect the said lands under any of the following Acts, viz. :—

Land Improvement . . .	10 Vict. c. 32, and Acts amending the same.
Arterial Drainage . . .	5 & 6 Vict. c. 89, and Acts amending the same.
Piers and Harbours . . .	9 & 10 Vict. c. 3, and Act amending the same.
Relief of Distress . . .	43 Vict. c. 4.
Land Law (Ireland) Act, 1881 .	44 & 45 Vict. c. 49, sections 19 and 31.

In the event of any portion of the lands being subject to a charge under any of the said Acts, you are requested to state in the observation column of the said schedule if your board requires notice of the conditional sanction of the advances or agreements for purchase in respect of the lands so charged.

Dated this day of 189 .

Solicitor for the vendor.

To .

The Accountants of the Board of Public Works.

Schedule referred to in the foregoing Requisition.

Townlands, Barony, and County (Ordnance Survey Names).	Area, Statute Measure.	Tenure by which the Lands are held by the Vendor.	Date of Instrument creating Charge.	Nature of Instrument.	Act under which Charge was made.	Amount of Loan.	Half-yearly Rent-charge.	Date of Expiry.	Name of Person to whom Loan was made, and Observations.
	A. R. P.					£ s. d.	£ s. d.		

N.B.—The vendor or his solicitor must fill up the first three columns, and be responsible for their accuracy. If part only of any townland be included in the originating statement, the words "part of" must be inserted before the name of such townland in the above schedule.

FORM 6.

Requisition as to Tithe Rent-charge.

[Heading and title as before.]

An originating statement having been filed this day affecting the lands described in the schedule hereto, the Superintendent of the Church Property and Collection Department will please state the particulars of the tithe rent-charges payable in respect of the said lands.

Dated this day of 189 .

Solicitor for the vendor.

Schedule.

To be filled in by Solicitor.

Barony of .
County of .

To be filled in by Church Property and Collection Department.

Denominations (Ordnance Survey Names only).	Area.	Tenure of Vendor.	Annual Ecclesiastical Tithe Rent-charge.	Fixed Annual Instalments in lieu of Tithe Rent-charge.	Annual Impropriate Tithe Rent-charge.	Names of Lay Impropriators as stated in Applotment Book.	Date of Certificates of Applotment.	Average Amount of Poor Rate, for last Five Years.	Observations.
	A. R. P.		£ s. d.	£ s. d.	£ s. d.				

N.B.—If the townlands be numerous they should be grouped according to the parishes in which they are situate.

FORM 7.

Certificate for Registering a Lis Pendens.

To the Registrar of Judgments. (Under 7 & 8 Vict. c. 90.)

SIR,—The following memorandum or minute contains the particulars of a Lis Pendens in the Court of the Irish Land Commission, which I require to be registered pursuant to the statute.

Name of solicitor with the name of the party for whom he is concerned.

Name of the Person whose Estate is intended to be affected thereby.	Usual or last known place of Abode of such Person.	Title, Trade, or Profession of such Person.

In the Court of the Irish Land Commission.

Land Purchase Acts.

Title of the matter,

Record No.

In the matter of the estate of

, vendor of land.

Date of filing originating statement, the day of 189 .

I certify that the Lis Pendens described in the above memorandum or minute is now in existence.

Dated this day of 189 .

To the Registrar of Judgments,

Registrar.

No. Received on the day of 189 .

NOTE.—It is requested that this memorandum may be filled up in legible writing, and free from erasures, otherwise it cannot be received in the Registry of Judgments Office.

FORM 8.

General Certificate of Appearances.

[Heading and title of matter.]

Originating statement filed day of 189 .

Names of Persons appearing.	Address for Service, or Name of Solicitor and registered Place of Business.	Nature of Appearance, *i.e.* "General with Notice of Sanction of Sales," "General without Notice of Sanction of Sales," or "Special for the purpose of, &c."

I certify that the above is a correct abstract of all the appearances which have been entered in this matter, being* appearances in all.

* State the number.

Dated this day of 189 .

Signature,

NOTE.—The above form must be accurately and legibly filled up by the solicitor before lodging it in the Registrar's Office.

FORM 9.

Certificate of the Entry of an Appearance.

[Heading and title of matter.]

Name of Person appearing.	Address for Service, or Name of Solicitor and registered Place of Business.	Nature of Appearance, *i.e.* "General with Notice of Sanction of Sales," "General without Notice of Sanction of Sales," or "Special for the purpose of, &c."

I certify that the above is a correct abstract of an appearance which has been entered in this matter.

Dated this day of , 189 .

Signature,

NOTE.—The above form must be accurately and legibly filled up by the solicitor before lodging it in the Registrar's Office.

FORM 10.

Agreement for Sale between Vendor and Tenant.

Court of the Irish Land Commission.

Impressed or Postage Stamp of value of 6d.

If Postage Stamp be used the party who first signs the Agreement must write his name or initials and the date across the Stamp.

An agreement made the day of 189 between of the vendor of the holding described in the first part of the schedule hereto, and of , the tenant in occupation of the said holding.

1. In case the Irish Land Commission shall advance the sum of £ guaranteed land stock to the said tenant for the purchase of the said holding, the said vendor will sell and the said tenant will purchase the same in fee simple,
at the price of £ , *which sum is to include all expenses incidental to the purchase.*

2. *The balance of the purchase money is to be paid as follows:—*

By a cash payment by the tenant of £ .

By a mortgage bearing £ per cent. interest, for £ .

3. The interest on the purchase money payable to the Land Commission pursuant to Section 35, Sub-section 2 of the Land Law (Ireland) Act, 1896, shall be at the rate of £ (*b*) per cent. per annum up to the date of the advance, and at the rate of £3 per cent. per annum from the date of the advance until the day from which the purchase annuity begins.

(*b*) Here insert the rate of interest agreed upon.

4. The sale shall be carried out by means of a vesting order.

5. The lodgment of this agreement with the Irish Land Commission is to be deemed an application by the said tenant for an advance pursuant to the Land Purchase Acts, to be repaid as is by the said Acts provided.

Schedule.

County	Barony	Electoral Division			
Reference to Map.	Ordnance Survey Names of Townlands (each on a separate line).	Area Statute Measure of the portion of each Townland to be sold.	Tenement Valuation.	Rent paid by Tenant.	Tenure of Tenant and Particulars of fixing of Rent if a judicial one. (*See* directions endorsed as to the filling in of this column.)
		A. R. P.	£ *s.* *d.*	£ *s.* *d.*	
		First Part.—Description of holding.			
		Second Part.—Additional land sold under the Purchase of Land (Ireland) Amendment Act, 1889.			
				N.B.—These lands must not exceed 10 acres statute measure in area, unless the tenement valuation be £10 or under. If the lands are not separately valued the approximate valuation should be given.	

Signed by the vendor in presence of
Name, .
Address, .
Occupation, .

Signature of vendor,

Postal Address,

Signed by the tenant in presence of [*the agreement having first been read and explained to him in my presence*]
Name, .
Address, .
Occupation, .

Signature of tenant,

Postal Address,

Occupation or description,

2 E

The words in italics may be struck out unless the tenant is illiterate.

I, the before-named tenant, make oath and say, as follows:—

1. That the particulars stated in the foregoing schedule are true, to the best of my knowledge and belief.

2. I reside on and have been in the occupation of the said holding and paying the rent therefor since the year 18 , and I hold the same as tenant, as in the said schedule is stated *and the said* (*a*) *is in my* * *possession.*

(*a*) Fee-farm Grant, Lease, or Agreement as the case may be.

* Of if not, state in whose possession.

3. There is not any person in occupation of the said holding as tenant or otherwise save as mentioned in the following schedule:—

If there are no under-tenants, fill in the word "none" where marked * * *

Names of the Persons in occupation as Under-tenants or otherwise.	Area in Statute Measure.	Rent (if any) payable by such Occupiers.	When payable.	Tenure or nature of Occupancy.
	A. R. P.	£ s. d.		
* * *				

4. There is not any charge or incumbrance affecting my interest in the said holding save those specified in the following schedule:—

Schedule containing particulars of Mortgages, Charges created by Deposit of Lease or otherwise, or Charges in favour of the Commissioners of Public Works in Ireland affecting the Tenant's Interest in the Holding.

If there are no incumbrances, fill in the word "none" where marked thus * * *

Date.	Name and Address of Incumbrancer.	Particulars of Incumbrance, Mortgage, or otherwise.	Principal Sum due.
			£ s. d.
	* * *		

* If the tenant has previously applied for any advance, write "save an advance of £ &c." giving the particulars.

† If the deponent be illiterate here insert "me to."

The words in italics may be struck out unless the deponent be a marksman.

5. I have not obtained from or (except by this agreement) applied to the Irish Land Commission for an advance of any sum for the purchase of any land,*

Sworn before me this day of 189 , at in the county of , and I know the deponent, the whole of the foregoing agreement and affidavit having been first read over by † the deponent, who appeared perfectly to understand the same, *and made h mark thereto in my presence.*

If the tenant wishes to be represented in the proceedings by a solicitor, here insert the name and registered place of business of such solicitor:—

Name, *Address,*

NOTE.—Section 35 (1) of the Land Law (Ireland) Act, 1896, provides: "Where an agreement for the purchase of a holding is made after the commencement of this Act and is lodged with the Land Commission the purchaser shall, in the event of the sale being carried out, be discharged from all liability to the vendor in respect of any liabilities affecting the holding at the date of the agreement, including all rent and arrears existing at such date; but if the advance is refused the agreement shall be void, and the tenant shall be liable to pay rent and arrears as if the agreement had not been made. Provided that no proceeding in respect of the said rent and arrears existing at the date of the agreement shall be brought pending the carrying out of the sale."

Directions as to the Preparation of the Agreement and Affidavit.

The agreement and affidavit must be neatly and accurately prepared, without any blanks, and all clauses not applicable to the case must be struck out, otherwise the agreement cannot be received.

When females are parties to the agreement they must be described either as "spinster," "widow," or "wife of *A.B.*"

The price and the advance must be in pounds only.

When it is intended that the tenant shall pay the stamp duty on his vesting order the words "*which sum is to include all expenses incidental to the purchase*" should be struck out.

Clause 1.—When additional land is being sold under the "Purchase of Land (Ireland) Amendment Act, 1889," insert after "in fee-simple," "together with the additional land specified in the second part of the said schedule." Here also insert any rights of grazing, or turbary, or other rights which are appurtenant to the holding, and which are exercised over lands not included therein, *e.g.*, "together with such right of grazing and cutting turf as has here-
"tofore been exercised by the said tenant upon the bog on the lands
"of *Blackacre*, in the possession of the said vendor [*or if the bog be*
"*tenanted* in the occupation of *A.B.*], and containing
"statute measure or thereabouts." Here also insert any exceptions or reservations coming within Section 31, Sub-section 2, of the Land Law (Ireland) Act, 1896, or any superior interests which the vendor and purchaser propose that the sale shall be subject to.

If the advance is of the whole purchase money, strike out clause 2.

In filling up the column headed "Tenure of Tenant," state whether

the tenant holds under fee-farm grant (giving date and parties), under lease or agreement in writing (giving date, parties and term), under a tenancy from year to year, or how otherwise. If the rent be a judicial one, state on what date and how it was fixed.

The agreement must be signed by both vendor and tenant, or by some person acting under power of attorney. An attorney should sign thus, "*A.B.* by *C.D.* acting under power of Attorney." *Trustees or limited owners selling under the provisions of the Settled Land Acts,* 1882 *to* 1890, *must themselves sign the agreement.*

The person taking the affidavit should not be the vendor, his agent, or solicitor, or the tenant's solicitor.

FORM 11.

Notice to Lodge Deeds, &c.

[Heading and title of matter.]

You are hereby required, within ten days from the service of this notice upon you, to inform me in writing, whether there are any, and if so, what deeds, leases, counterparts of leases, maps, surveys, rentals, statements of title, or other documents in your custody or power, relating to the estate the subject of the originating statement filed in this matter, or to the charges thereon, namely—

(*Insert particulars.*)

And you are further required, within the same period, to lodge all such documents in this Court.

And you are hereby apprised, that if, having in your custody or power any such documents, you refuse or neglect to comply with this notice, and in consequence thereof an application to the Commissioner may become necessary, this notice will be used to charge you with the costs of such application.

Dated this day of 189 .

To

Solicitor for the vendor.

FORM 12.

Affidavit verifying Abstract of Title.

I, of , solicitor for the said vendor, make oath and say:—

1. I have read the foregoing abstract of title previous to swearing this affidavit, and compared the same with the several deeds and

documents therein abstracted, so far as they are in the said abstract stated to be forthcoming.

2. The said abstract is a true and correct abstract of title to the lands described at the head thereof, and in the originating statement filed in this matter, and the several documents therein purporting to be abstracted are fairly and correctly abstracted to the best of my knowledge, information, and belief. I have in the schedule of documents intended to be lodged herewith, and indorsed by me, previously to swearing this affidavit, set forth all deeds and muniments of title relating to the said lands which are in my power, possession, or procurement.*

* Here may be added when necessary :—" Except muniments of title bearing date prior " to the root of title, and none of which relate to existing charges or affect the title as " abstracted," or " except documents which have already been lodged in Court in the course "of the proceedings herein."

Sworn, &c.

FORM 13.

Draft Requisition for Searches in the Registry of Deeds.

To the registrar appointed by Act of Parliament for registering deeds, wills, and so forth in Ireland.

I require (by the direction of the Irish Land Commission) to have an abstract of every memorial registered in the Office for Registering Deeds, and so forth in Ireland, of all acts appearing on a search on the index of names only, by *A.B.*, from the day of 18 , to the day of 18 , by *C.D.*, from the day of 18 , to the date of making the certificate upon this requisition, &c., to affect the lands of (*follow the rulings on title*), excepting therefrom the memorials of the following deeds, viz. :— (*Here set out the exceptions consecutively numbered, stating the date and description of each instrument, the parties' names, the date of registration, the book, and the number*).

Dated this day of 189 .

G.H., solicitor for the vendor.

FORM 14.

Direction for Survey by Ordnance Survey Department.

[Heading and title as before.]

Upon application of Mr. , solicitor for the said vendor, let it be referred to the Director of the Ordnance Survey Department

to survey the lands specified in the schedule hereto, and to furnish a map or maps on a suitable scale, and a report setting forth the names of the several occupying tenants, and the areas of their respective holdings, and also the particulars of the holdings of any sub-tenant of the said occupying tenants, and the names of such sub-tenants.

Dated this day of 189 .

Clerk in charge of Agreements
for Purchase Office.

Schedule.

NOTE.—Where whole townlands are to be surveyed the area need not be here stated, but if part only of a townland is to be surveyed the area of such part should be given. The barony and county should always be stated. The description in the schedule should correspond with that in the First Schedule to the originating statement.

FORM 15.

Affidavit verifying Occupancy.

[Heading and title of matter.]

I, , of , in the county of aged 21 years and upwards, make oath and say:—

1. That the several persons named in the schedule to this affidavit have agreed to purchase their respective holdings in the townlands therein named for the respective sums therein stated.

2. I know the said lands and the occupying tenants thereof, and I say that the said several persons in the said schedule named are still in the occupation of their respective holdings so as aforesaid purchased by them.

3. My means of knowledge of the facts above deposed to are *

Sworn, &c.

* Here state whether deponent visited the land and when, or what communication he held with the tenants and when, or other his source of information.

Schedule referred to in the foregoing affidavit.

Townlands (Ordnance Survey Names only to be given).	Name of Tenant Purchaser.	Postal Address of Tenant Purchaser.	Purchase Money.
			£

FORM 16.

The Irish Land Commission—Church Property Department.

Application for the Apportionment of Tithe Rent-charge payable to the Irish Land Commission.

Number of the Receivable Order issued for the rent-charge.* } No. ( ).

* Please quote this number correctly.

Diocese .

Benefice .

Record No. .

In the matter of the estate of a vendor of land. } Whereas the lands mentioned in the First Schedule hereto are liable to the annual tithe rent-charge therein particularly mentioned, payable to the Irish Land Commission. And whereas that part of the said lands mentioned in the first part of the Second Schedule hereto has been sold pursuant to the provisions of the Land Purchase Acts. Now, I, as vendor in this matter, apply to the Irish Land Commission that the annual tithe rent-charge so chargeable on said lands may be divided and apportioned between the respective parts of said lands so sold and unsold in manner set forth in the Second Schedule hereto.

Dated this day of , 189 .

Signature,

Address,

First Schedule.

Annual tithe rent-charge, £ *s.* *d.*

Ordnance Survey Names of Townlands upon which above Rent-charge is charged. Parish and County.

Second Schedule.

Townlands included in each Lot.	Contents of each Lot, Statute Measure.	Tenement Valuation of each Lot, exclusive of Buildings.	Amount of Rent-charge proposed to be charged on each Lot.
	A. R. P.	£ s. d.	£ s. d.
First Part.—Lands sold under Land Purchase Acts.			
Second Part.—Lands not sold.			
Annual tithe rent-charge, as per First Schedule, £			

LAND PURCHASE ACTS.

Ecclesiastical Tithe Rent-charge.

This endorsement is not to be filled by the Applicant.

No. ( ).

Diocese of

Benefice of

APPORTIONMENT.

No.	Name of Payer.	Annual Rent-charge.
		£ s. d.
	Total annual rent-charge, £	

Examined

Approved

FORM 17.

The Irish Land Commission—Church Property Department.

Application for the Apportionment of Fixed Annual Instalments in lieu of Tithe Rent-charge.

Number of the Receivable Orders issued for the Instalments.* } No. ( ).

* Please quote this number correctly.

Diocese .

Benefice .

Record No. .

In the matter of the estate of a vendor of land. } Whereas the lands mentioned in the First Schedule hereto are liable to the annual rent-charge therein particularly mentioned, payable to the Irish Land Commission for a period of years from the first day of 18 , and charged thereon by * Merging Order, numbered bearing date the day of , 18 . And whereas that part of the said lands mentioned in the first part of the Second Schedule hereto has been sold pursuant to the provisions of the Land Purchase Acts. Now I, as vendor in this matter, apply to the Irish Land Commission that the annual rent-charge so chargeable on said lands may be divided and apportioned between the respective parts of said lands so sold and unsold in manner set forth in the Second Schedule hereto.

* A certified copy of the Merging Order can be procured at the office of the Irish Land Commission.

Dated this day of , 189 .

Signature,
Address,

First Schedule.

Fixed annual rent-charge, £ *s.* *d.*

Ordnance Survey Names of Townlands, upon which above Rent-charge is charged. Parish and County.

Second Schedule.

Townlands included in each Lot.	Contents of each Lot, Statute Measure.	Tenement Valuation of each Lot, exclusive of Buildings.	Amount of Rent-charge proposed to be charged on each Lot.
	A. R. P.	£ *s.* *d.*	£ *s.* *d.*
First Part.—Land sold under Land Purchase Acts.			
Second Part.—Lands not sold.			
Annual rent-charge, as per First Schedule, £			

LAND PURCHASE ACTS.

Fixed Annual Instalments.

This endorsement is not to be filled by the Applicant.

No. ( ).

Diocese of

Benefice of

APPORTIONMENT.

No.	Name of Payer.	Annual Rent-charge. £ s. d.
	Total annual rent-charge, £	

Examined

Approved

FORM 18.

Statement of Facts for the Apportionment of an Impropriate Tithe Rent-charge.

[Heading and title of matter.]

The Statement of Facts of

Showeth—

1. That the lands described in the schedule hereto are subject to an annual impropriate tithe rent-charge of £ s. d. payable to of .

2. That the said has been in receipt of the said rent-charge for [six years and upwards] as (*here state whether as owner in fee-simple, as tenant for life, as trustee, as lessee under a lease of the rent-charge, or how otherwise. If the person entitled has not been in receipt of the rent-charge for six years, state for what period it has been paid to him*).

3. That [parts of] the lands described in the first part of the said schedule have been sold under the Land Purchase Acts [and it is contemplated selling under the said Acts the residue of such lands, and the same are the property of the said vendor].

4. That the lands described in the second part of the said schedule are the property of the said vendor, but it is not intended to sell them under the said Acts.

Variation when all the Lands are not the Property of the Vendor.

[4. That the lands described in the second part of the said schedule are not the property of the said vendor, and the name and address of the reputed owner thereof is stated therein.]

5. That save the proceedings herein there is not any suit or matter pending in any Court in relation to the said rent-charge or lands, and that no person hereinbefore referred to is an infant, idiot, lunatic, or married woman [save—*here state the particulars of any suit or matter, and the names of any persons under disability, giving the names and addresses as the case may be of the guardian of infant, committee of lunatic, or husband of married woman*].

6. That it is expedient that the said rent-charge be apportioned, and the proposed apportionment set forth in the said schedule would be just and fair, having regard to the quantities and value of the lands and the rights of the persons interested.

Schedule referred to in the foregoing Statement.

Townlands, Parish, Barony, and County (Ordnance Survey Names only).	Reference to Map.	Area in Statute Measure of each Townland or part of a Townland.	Tenement Valuation, exclusive of Buildings.	Proposed Apportionment.	Observations.
		A. R. P.	£ s. d.	£ s. d.	
		FIRST PART.			
A.—Lands which have been sold.					
B.—Lands which it is contemplated selling.					
		SECOND PART.			
A.—Lands the property of the vendor not intended to be sold.					
A.—Lands the property of		of	in the county of		

I, the above-named , make oath and say that I have read the foregoing statement and the schedule thereto, and the same are true and accurate to the best of my knowledge, information, and belief.

Sworn, &c.

FORM 19.

Statement of Facts for the Apportionment of Quit or Crown Rent.

[Heading and title of matter.]

The Statement of Facts of
Showeth—

1. That the lands described in the schedule hereto which form [part of] the ancient denomination of are charged in the Crown rental with a yearly (*quit, Crown, composition, or otherwise*) rent of £ *s.* *d.* payable to Her Majesty the Queen under (*here specify the patent or other instrument creating the rent. If the application be for the apportionment of more rents than one, and they are charged upon different lands, there should be a separate schedule for each, and the statement should be varied accordingly*), and which is in receipt from [*A.B., or if the rent be contributed by two or more persons*, the persons named in the said schedule in the proportions therein specified. *Here add the circumstances* (*whether under the provisions of a deed or otherwise*) *in which the rent is so contributed*].

2. That [parts of] the lands described in the first part of the said schedule have been sold under the Land Purchase Acts [and it is contemplated selling under the said Acts the residue of such lands, and the same are the property of the said vendor].

3. That the lands described in the second part of the said schedule are not the property of the said vendor, and the names and addresses of the reputed owners thereof are stated therein.

Variation when all the Lands are the Property of the Vendor.

[3. That the lands described in the second part of the said schedule are the property of the said vendor, but it is not intended to sell them under the said Acts.]

4. That no apportionment of the said rent has heretofore been made.

5. That save the proceedings herein, there is not any suit or matter pending in any Court in relation to the said lands, or to the rents and profits thereof, and that no person hereinbefore referred to is an infant, idiot, lunatic, or married woman [save—*here state the particulars of any suit or matter, and the names of any persons under disability, giving the names and addresses as the case may be of the guardian of infant, committee of lunatic, or husband of married woman*].

6. That it is expedient that the said rent should be apportioned,

and the proposed apportionment set forth in the said schedule would be just and fair, having regard to the quantities and value of the lands and the rights of the parties interested.

Schedule referred to in the foregoing Statement.

Townlands, Barony, and County (Ordnance Survey Names only).	Reference to Map.	Area in Statute Measure of each Townland or part of a Townland.	Tenement Valuation, exclusive of buildings.	Names and Addresses of Owners or reputed Owners.	Persons by whom Quit or Crown Rent has heretofore been paid and in what proportions.	Proposed Apportionment.	Observations.
		A. R. P.	£ s. d.			£ s. d.	
			FIRST PART.				
A.—Lands which have been sold.							
B.—Lands which it is contemplated selling.							
			SECOND PART.				

Affidavit as in Form No. 18.

FORM 20.

Statement of Facts for the Apportionment of Rent, Fees, Duties, or Services.

Heading and title of matter with the following addition :—

And in the matter of the apportionment of a rent £ s. d. (*or otherwise as the case may be*) created by an indenture of [fee-farm grant *or* lease] dated the day of 18 .

The Statement of Facts of

Showeth—

1. That by the above-mentioned indenture of fee-farm grant (*or*

lease) which was made between *A.B.* of the one part and *C.D.* of the other part, the said *A.B.* [in pursuance of the provisions of the Renewable Leasehold Conversion Act, *or otherwise as the case may be*] granted (*or demised*) to the said *C.D.* the lands described in the schedule hereto and in the said indenture described as (*here insert the description of the lands as in the grant or lease*) to hold to the said *C.D.* and his heirs for ever (*or his executors, administrators, and assigns for the term of, &c.*) subject to the yearly rent of £ *s.* *d.*, payable half-yearly as therein mentioned, and to certain conditions, covenants, and agreements on the grantee's (*or lessee's*) part therein contained. (*Here state shortly the particulars of any instruments or circumstances by which the lands were partitioned, or by which any special liability for or indemnity against any portion of the rent was created, with such statement of the devolution of title as may be necessary to make the statement of facts intelligible to the Commissioner.*)

2. That *E.F.* of is the owner of the said rent of £ *s.* *d.*, and has been in receipt thereof for years and upwards.

3. That the said (*i.e. the person making the statement of facts*) has made inquiries to ascertain if there is any superior rent affecting the interest of the said *E.F.*, and to the best of his knowledge, information, and belief, there is no such superior rent (*or otherwise as the case may be*).

4. That [parts of] the lands described in the first part of the said schedule have been sold under the Land Purchase Acts [and it is contemplated selling under the said Acts the residue of such lands, and the same are the property of the said vendor].

5. That the lands described in the second part of the said schedule are not the property of the said vendor, and the names and addresses of the reputed owners thereof are stated therein.

Variation when all the lands are the Property of the Vendor.

[5. That the lands described in the second part of the said schedule are the property of the said vendor, but it is not intended to sell them under the said Acts.]

6. That save the proceedings herein there is not any suit or matter pending in any Court in relation to the said rent or lands, and that no person hereinbefore referred to is an infant, idiot, lunatic, or married woman [save—*here state the particulars of any suit or matter, and the names of any persons under disability, giving the names and addresses as the case may be of the guardian of infant, committee of lunatic, or husband of married woman*].

7. That it is expedient that the said rent should be apportioned,

and the proposed apportionment set forth in the said schedule would be just and fair, having regard to the quantities and value of the lands, and the rights of the parties interested.

Schedule referred to in the foregoing Statement.

Townlands, Barony, and County (Ordnance Survey Names only).	Reference to Map.	Area in Statute Measure of each Townland or part of a Townland.	Tenement Valuation, exclusive of Buildings.	Names and Addresses of Owners or reputed Owners.	Proportions in which the Rent has heretofore been paid.	Proposed Apportionment.	Observations.
		A. R. P.	£ s. d.		£ s. d.	£ s. d.	
		FIRST PART.					
A.—Lands which have been sold.							
B.—Lands which it is contemplated selling.							
		SECOND PART.					

Affidavit as in Form No. 18.

FORM 21.

Statement of Facts for the Apportionment of a Rent-charge or an Annuity.

Heading and title of matter, with the following addition :—

And in the matter of the apportionment of a rent-charge (*or annuity*) of £ created by a deed dated the day of 18 .

The Statement of Facts of

Showeth—

1. That by the above-mentioned deed, dated the day of 18 , and made between (*here state the parties to the deed and its nature, whether a marriage settlement or otherwise*).

A.B. being then seized in fee of the lands described in the schedule hereto charged the same with the annuity of £ in favour of *C.D.* (*here specify the particulars of the rent-charge or annuity, whether the same was perpetual, for a term of years, for a life or lives, or by way of jointure, and the particulars of any term of years vested in trustees for securing such rent-charge or annuity. Here also state shortly the particulars of any instrument or circumstances by which the lands were partitioned or by which any special liability for, or indemnity against any portion of the rent-charge or annuity was created, with such statement of the devolution of title as may be necessary to make the statement of facts intelligible to the Commissioner*).

2. That *E.F.* of is the owner of and in receipt of the said rent-charge (*or annuity*).

3. That the [parts of] the lands described in the first part of the said schedule have been sold under the Land Purchase Acts, [and it is contemplated selling under the said Acts the residue of such lands, and the same are the property of the said vendor].

4. That the lands described in the second part of the said schedule are not the property of the said vendor, and the names and addresses of the reputed owners thereof are stated therein.

Variation when all the Lands are the Property of the Vendor.

[4. That the lands described in the second part of the said schedule are the property of the said vendor, but it is not intended to sell them under the said Acts.]

5. That, save the proceedings herein, there is not any suit or matter pending in any Court in relation to the said rent-charge (*or annuity*) or lands, and that no person hereinbefore referred to is an infant, idiot, lunatic, or married woman (save—*here state the particulars of any suit or matter, and the names of any persons under disability, giving the names and addresses as the case may be of the guardian of infant, committee of lunatic, or husband of married woman*).

6. That it is expedient that the said rent-charge (*or annuity*) should be apportioned, and the proposed apportionment set forth in the said schedule would be just and fair, having regard to the quantities and value of the lands, and the rights of the parties interested.

Schedule referred to in the foregoing Statement.

Townlands, Barony, and County (Ordnance Survey Names only).	Reference to Map.	Area in Statute Measure of each Townland or part of a Townland.	Tenement Valuation, exclusive of Buildings.	Names and Addresses of Owners or reputed Owners.	Proportions in which the Rent-charge or Annuity has heretofore been paid.	Proposed Apportionment.	Observations.
		A. R. P.	£ s. d.		£ s. d.	£ s. d.	
FIRST PART.							
A.—Lands which have been sold.							
B.—Lands which it is contemplated selling.							
SECOND PART.							

Affidavit as in Form No. 18.

FORM 22.

Request to Appoint an Arbitrator.

[Heading and title of matter.]

SIR,—I hereby require you to appoint an arbitrator to determine the price to be paid for the (*here describe the superior interest, or the apportioned part thereof, as the case may be*), which has been ordered to be redeemed by order made in this matter and dated the day of 189 , a copy of which is annexed hereto, and all other matters which it appertains to the Court of Arbitration to determine pursuant to the Land Purchase Acts.

And take notice that if for the space of fourteen days from the date of the service of this request upon you, you fail to appoint such arbitrator, I shall apply to the Court to determine the price, as is provided by the said Acts.

Dated this day of 189 .

(Signed) *E.F.*

[*Here follows a copy of the order for the redemption.*]

FORM 23.

Submission to Arbitration and Appointment of Arbitrators and Umpire.

[Heading and title of matter.]

Whereas the Irish Land Commission, upon the day of 189 , made an order in the following terms, viz.:—(*Recite in full the order for redemption*).

It is hereby agreed by and between *A.B.*, the said vendor, and *C.D.*, the owner (*or tenant for life, or otherwise as the case may be*) of the said (*here describe the superior interest*) to refer the determining of the price of the said (*superior interest or apportioned part*) so ordered to be redeemed, to the award of *E.F.* of and *G.H.* of pursuant to the provisions of the Land Purchase Acts. Now the said *A.B.* hereby appoints the said *E.F.* to be and act as his arbitrator herein, and the said *C.D.* hereby appoints the said *G.H.* to be and act as his arbitrator.

Dated this day of 189 .

Signed by the said *A.B.* in presence of (Signed) *A.B.*
Signed by the said *C.D.* in presence of (Signed) *C.D.*

The said *E.F.* and *G.H.*, the arbitrators so hereby appointed, do hereby and before entering upon the matters herein referred to them, in accordance with the provisions of the Land Purchase Acts, appoint *L.M.* of to be and act as umpire in case of differences between them.

Dated, &c.

Witness (Signed) *E.F.*
(Signed) *G.H.*

FORM 24.

Award.

[Heading and title of matter.]

Whereas the Irish Land Commission, by order, dated the day of 189 , ordered that (*here describe the superior interest or apportioned part thereof*) should be redeemed. And whereas *A.B.*

and *C.D.*, being unable to agree upon the price to be paid for (*such rent, or otherwise as the case may be*), have referred the determining of the price to be paid to *E.F.* and *G.H.* And by writing under their hands, dated the day of 189 , the said *A.B.* hath appointed *E.F.* to be and act as his arbitrator herein, and the said *C.D.* hath appointed *G.H.* to be and act as his arbitrator herein.*

Now we, the said arbitrators, having taken upon ourselves the burden of this reference, and having duly weighed and considered the documentary and other evidence given before us, do hereby publish our award in writing, in manner following, that is to say:—

We award and adjudge that the price to be paid for the said (*rents or otherwise as the case may be*) is to be the sum of £ . And we do further adjudge and award (*that each party do bear his own costs of the arbitration, and that they do pay in equal proportions our fees and expenses as such arbitrators, or otherwise as the case may be*).

In witness whereof we have hereunto set our hands this day of 189 .

(Signed) *E.F.*
(Signed) *G.H.*

Signed and published in the presence of

Umpire's Award where Arbitrators are unable to agree.

[*Proceed as before down to**.]

And whereas the said arbitrators so thereby appointed did, by writing under their hands, dated the day of 189 , before entering into the matter so referred to them, appoint me, *L.M.*, to be and act as umpire in case of difference between them. And whereas the said *E.F.* and *G.H.* have failed to make their award concerning the said price within twenty-one days after the said day of 189 (*or as the case may be*).

Now I, *L.M.*, having taken upon myself the charge of this reference, and having heard, examined, and considered the allegations, witnesses, and evidence of both parties concerning the said price, do make this my award, in writing, of and concerning the said price, in manner following, that is to say:—

I award and adjudge, &c. (*as before*).

FORM 25.

Allocation Schedule.

Court of the Irish Land Commission.

Land Purchase Acts.

Mr. Commissioner

Record No.

In the Matter of the Estate of , a Vendor of Land.

Particulars of Fund to be allocated—

Order of Priority.	Date.	Name, Residence, and Addition of Claimant.	Particulars of Demands.	Principal.	Interest or Arrears up to the day of 189 .	Costs.	Total due for Principal, Interest, and Costs.	Date of Payment.	Rulings of the Commissioner.
				£ s. d.	£ s. d.	£ s. d.	£		

FORM 26.

Privity for the Lodgment of a Guarantee Deposit.

[Heading and title of matter.]

Name of Tenant Purchaser.	Townland (Ordnance Survey Name).	Barony.	County.	Amount of Advance.	Amount of Guarantee Deposit.
				£	£

Name of Depositor in full,

Postal Address,

Occupation or other description,

NOTE.—The above particulars are to be accurately filled in by the Applicant.

Issue receivable order to enable the above-named depositor to lodge the guarantee deposit above stated, which is to be registered in his name, pursuant to the Rule in that behalf.

Dated this day of 189 .

Examiner.

FORM 27.

Notice of Motion to appoint Trustees for the Purposes of the Settled Land Acts, 1882 *to* 1890.

Court of the Irish Land Commission.

Land Purchase Acts.

Record No.

In the matter of the estate of *A.B.*, a vendor of land situate at
And in the matter of the estate of in the county of settled
by a settlement made by an indenture, dated the day of 18 , and made between [*or*, by the
will of dated *or as the case may be*], and in the matter of the Settled Land Acts, 1882 to 1890.

Take notice that counsel will on the day of 189 , apply to Mr. Justice , on the part of that *G.H.* of , and *I.J.* of may be appointed trustees under the above-mentioned settlement for the purposes of the Settled Land Acts, 1882 to 1890, and that the costs of this application may be directed to be taxed as between solicitor and client, and that the same, when taxed, may be paid out of the property subject to the said settlement, and that for that purpose all necessary directions may be given which application will be grounded on, &c.

FORM 28.

Statement of Facts for the Appointment of Trustees, under Section 66 *of the Landed Estates Court Act.*

Court of the Irish Land Commission.

Land Purchase Acts.

Record No.

In the matter of the estate of *John Brown*, a vendor of land, and of a settlement dated the 9*th* day of *May* 1861, executed on the marriage of *William Thompson* with *Jane Moore.*

The statement of facts of *Jane Thompson, formerly Moore*, showeth as follows :—

By an Indenture bearing date the 9*th* day of *May* 1861, and made between *William Thompson* of the 1st part; me, the said *Jane Thompson*, then *Jane Moore*, of the 2nd part; and *A.B.* and *C.D.* of the 3rd part, being the settlement executed on the occasion of my marriage with the said *William Thompson*, it was agreed that a sum of £10,000 should be vested in the said *A.B.* and *C.D.* as trustees upon the trusts therein mentioned, and (among others) in trust for the said *William Thompson* and *Jane Moore*, successively, during their lives, and after the decease of the survivor, for the children of the said marriage as therein mentioned.

Pursuant to a power in the said settlement, the said trustees lent £5000, part of the said trust moneys, to the above-mentioned *John Brown*, on the security of an Indenture of Mortgage bearing date the 20*th* day of *June* 1865, whereby the said *John Brown* conveyed certain lands to the said trustees, to secure the said sum of £5000.

The said mortgaged premises, or part thereof, are the subject of proceedings for sale in this Court, in the matter of the said estate, and the said mortgage debt is still a charge upon the said premises.

The other trust funds are a sum of £5000 *Consols*, now standing in the names of said *A.B.* and *C.D.*

The said *A.B.* died on the 4*th* of *July* 1879, the said *C.D.* was adjudicated a bankrupt on the 7*th* of *November* 1882. It is therefore expedient that new trustees of the said settlement should be appointed in place of the said *A.B.* and *C.D.*

E.F. and *G.H.* (*describing them*) are fit and proper persons to be appointed, and they have consented to act as such trustees as by their undertaking dated the day of 189 , and filed herewith appears; there are no proceedings for the appointment of new trustees of the said settlement pending before any other Court.

The said *William Thompson* died on the 7*th* day of *March* 1879. There are three children of the said marriage, *William*, *Sarah*, and *James*, of whom the two latter are infants, aged 19 and 17 respectively, and are now residing with me, the said *Jane Thompson*.

The applicant submits that the said *C.D.* should be removed from being such trustee as aforesaid, and that new trustees should be appointed of the said settlement and trust funds by an Order of the Court, and that provision should be made for the payment out of the said trust fund, by such trustees when appointed, of the costs of this statement, the order to be made thereon, and the proper and necessary proceedings thereunder.

Dated this day of 189 .

(Signed) *Jane Thompson.*

I, the said *Jane Thompson*, make oath and say that I have read the foregoing statement, and that the same is true to the best of my knowledge, information, and belief, and that I am entitled to the relief sought.

Sworn, &c.

FORM 29.

Notice of Lodgment of Surveyor's Report and Scheme for Partition.

[Heading and title of matter.]

Take notice that in pursuance of the order in this matter, dated the day of 189 , Mr. the surveyor thereby appointed, has lodged in the Registrar's office of the Irish Land Commission, 24 Upper Merrion Street, Dublin, his report and map with scheme for partition of the lands of , situate in the barony of , and county of , and held , and further Take notice that any person interested in said partition, is at liberty to inspect the said report, map, and scheme, and that if no application be made to the Commissioner within fourteen days after the service of this notice to vary or amend the said report and scheme for partition the same shall stand confirmed, and a final order for partition will be made in accordance with such report, map, and scheme.

Dated this day of 189 .

To

Solicitor for

FORM 30.

Commission to Examine Witnesses.

[Heading and title of matter.]

Victoria, by the Grace of God of the United Kingdom of Great Britain and Ireland Queen, Defender of the Faith, and so forth, to [*state name and address of examiner or commissioner appointed*] greeting.

We hereby authorise you upon the day of 189 , at , in the presence of the solicitors for the persons appearing in this matter, or in the presence of their or of any of their lawfully appointed substitutes, or otherwise notwithstanding the absence of any of them, to swear the witnesses who shall be

produced for examination in the said matter, and cause them to be examined, and their depositions to be reduced into writing. We further authorise you to adjourn (if necessary) the said examinations from time to time and from place to place, as you may find expedient. And we command you upon the examinations being completed, to transmit the depositions and the whole proceedings had and done before you, together with this commission to the registrar of the said Court.

Witness the seal of the Irish Land Commission the
day of 189 .

Registrar.

Taken out by

FORM 31.

Summons for the Attendance of Witnesses and for the Production of Documents.

[Heading and title of matter.]

You and each of you are hereby required to attend before Mr. Commissioner , at his court [or chamber] at 24 Upper Merrion Street, Dublin, at the hour of o'clock on day the day of 189 , and from day to day there to be examined in relation to this matter (*a*). And herein fail not at your peril.

Dated this day of 189 .

Registrar.

To

of

(*a*) In a summons for the production of documents here add "and you are also hereby required to produce to the Court all "papers, documents, letters, writings, and other evidences in your "power, possession, or procurement, relating to this matter," [*or otherwise as the case may be*].

FORM 32.

Writ of Sequestration.

[Heading and title of matter.]

Victoria, by the Grace of God of the United Kingdom of Great Britain and Ireland Queen, Defender of the Faith, and so forth, to [*name and address of sequestrator*] greeting.

Whereas by an order made in this matter and dated the day of 189 , it was ordered that *A.B.* should [pay into the Bank of Ireland to the credit of this matter the sum of £ , *or as the case may be*]. Know you therefore that we, in confidence of your prudence and fidelity, have given, and by these presents do give to you full power and authority to enter upon all the messuages, lands, tenements, and real estate whatsoever of the said *A.B.*, and to collect, receive, and sequester into your hands not only all the rents and profits of his said messuages, lands, tenements, and real estate, but also all his goods, chattels, and personal estates whatsoever; and therefore we command you, that you do at certain proper and convenient days and hours, go to and enter upon all the messuages, lands, tenements, and real estates of the said *A.B.*, and that you do collect, take, and get into your hands not only the rents and the profits of his said real estate, but also all his goods, chattels, and personal estate, and detain and keep the same under sequestration in your hands until the said *A.B.* shall [pay into Court to the credit of this matter the said sum of £ , *or as the case may be*, and] clear his contempt, and this Court make other order to the contrary.

Witness the seal of the Irish Land Commission the day of 189 .

Registrar.

FORM 33.

Requisition to have the Order of a Commissioner not made upon a Question of Law reconsidered by a Judicial Commissioner and two other Commissioners.

[Heading and title of matter.]

I am aggrieved by the order of Mr. Commissioner , made in this matter and dated the day of 189 , whereby it was ordered and I require to have the said order reconsidered by a judicial Commissioner and two other Commissioners; and I certify that the question involved is not one of law.

Dated this day of 189 .

Solicitor for

FORM 34.*

Application by a Tenant for an Advance to enable him to Purchase his holding from the Land Judges.

Court of the Irish Land Commission.

Land Purchase Acts.

Record No. A.——

In the matter of the estate of owner; *Ex parte* petitioner.	I, the tenant in occupation of the holding described in the first part of the schedule hereto, *have been declared the purchaser of the lands in the*

said schedule described for the sum of £ [or] *intend to offer the sum of £ for the lands in the said schedule described.*

The said lands have been [or] *my offer will be conditional on the said lands being* sold to me in fee simple discharged from all superior interests, save (*a*) and I hereby apply to the Irish Land Commission to advance to me, pursuant to the said Acts, the sum of £ Guaranteed Land Stock, for the purpose of such purchase, which advance is to be repaid as is by the said Acts provided.

(*a*) Here insert the particulars of any superior interests which the sale is made subject to.

Schedule.

[*Same as that to Form* 10.]

Signed by the said tenant in presence of—	Dated this day of 189 .
Name,	Signature of tenant,
Address,	Postal address,
Occupation,	Occupation or description,

[*Here follows the Affidavit as in Form* 10, *changing the word "Agreement" to "Application" in Paragraph* 5 *and in the Jurat.*]

Directions as to preparation of Application and Affidavit.

The application and affidavit must be neatly and accurately prepared, without any blanks, and must correspond with the Court rental, otherwise the application cannot be received.

When the tenant is a female she should be described either as "spinster," "widow," or "wife of *A.B.*"

In filling up the column headed "Tenure of Tenant," state whether the tenant holds under fee-farm grant (giving date and parties), under lease or agreement in writing (giving date, parties, and term), under a tenancy from year to year, or how otherwise. If the rent be a judicial one, state on what date and how it is fixed.

* The following notice was published in the Legal Diary on 14th December 1903, viz.: "Applications by tenants for advances to enable them to purchase their holdings from the Land Judge may be made on the existing forms Nos. 34 and 34A, provided the words "Guaranteed Land Stock" be struck out.

FORM 35.

Undertaking by Tenant to purchase his holding from the Land Commission, and Application for Advance.

Court of the Irish Land Commission.

Land Purchase Acts.

Record No. A.——

* In the matter of the estate of owner; *Ex parte* petitioner.	I, , the tenant in occupation of the holding described in the first part of the schedule hereto, hereby propose and undertake as follows:—

* *N.B.*—If the estate is not being sold in the Land Judges Court, the title of the matter should be:—In the matter of the estate of , a vendor of land.

1. In case the said Commission buy the lands described in the said schedule, I will purchase the same from them in fee simple at the price of £ , to be paid as follows:—

By an advance to be made by the said Commission to me of £ Guaranteed Land Stock.

By a cash payment by me to the said Commission of £ .

2. The lodgment of this undertaking with the Irish Land Commission is to be deemed an application by me for an advance pursuant to the said Acts, to be repaid as is by the said Acts provided.

Schedule.

[*Same as that to Form* 10.]

Signed by the said tenant in presence of—	Dated this day of 189 .
Name,	Signature of tenant,
Address,	Postal address,
Occupation,	Occupation or description,

[*Here follows the Affidavit as in Form* 10, *changing the word "Agreement" to "Undertaking" in Paragraph* 5, *and in the Jurat.*]

Directions as to preparation of Undertaking and Affidavit.

The undertaking and affidavit must be neatly and accurately prepared, without any blanks, and all clauses not applicable to the case must be struck out, otherwise the undertaking cannot be received.

When the tenant is a female she should be described either as "spinster," "widow," or "wife of *A.B.*"

CLAUSE 1.—When it is proposed to purchase additional land under the Purchase of Land (Ireland) Amendment Act, 1889, insert after "superior interests," "together with the additional land specified in the second part of the said schedule." Here also insert any rights of

grazing, or turbary, or other rights which are appurtenant to the holding, and which are exercised over lands not included therein, *e.g.* "together with such right of grazing and cutting turf as has hereto-"fore been exercised by the said tenant upon the bog on the lands of "*Blackacre*, in the possession of , containing statute measure "or thereabouts." Here insert also the particulars of any superior interests which the purchaser proposes the sale shall be made subject to.

FORM 36.

Application by a Landlord to the Land Commission to purchase his Estate for Re-sale.

[Heading and title of matter.]

I, the above-named vendor, propose to sell to the Irish Land Commission for the sum of £ Guaranteed Land Stock, the lands comprised in the originating statement filed by me on the day of 189 , and I hereby apply to the Irish Land Commission to purchase the same for re-sale to the tenants thereof, and I undertake to pay to the Irish Land Commission the reasonable expenses incurred by them in connection with the said sale.

Dated this day of 189 .

Signature of vendor.

N.B.—This application must be accompanied by undertakings in Form 35 from the requisite number of tenants to buy their holdings. The Land Commission cannot buy an estate unless at least four-fifths in number and value of the tenants are prepared to buy their holdings.

FORM 37.

Originating Notice under the Redemption of Rent (Ireland) Act, 1891.

County
No.

Court of the Irish Land Commission.

Redemption of Rent (Ireland) Act, 1891.

(*a*) "Lessor" or "Grantor."	Name of (*a*) , and residence, if known.
	Name and residence of the above person's agent, if any.
(*b*) "Lessee" or "Grantee."	Name and residence of (*b*).
	Post office from which he receives his letters.

Description of Holding.

County . Barony . Electoral Division .

Ordnance Survey Names of Townlands (each on a separate line).	Area, Statute Measure, of the portion of each Townland.			Rent of Holding.			Gross Poor Law Valuation.		
	A.	R.	P.	£	s.	d.	£	s.	d.

Originating Notice of Application by a (*a*) *to redeem his Rent or in the alternative to fix a Fair Rent.*

(*a*) "Lessee" or "Grantee."

I, , the (*a*) , being in *bonâ fide* occupation of the above holding, which is held under a (*b*) dated the day of 18 , and made between (*c*) at the yearly rent of £ , apply to the Court for an order for the redemption of the said rent, or, in the alternative, for an order fixing the fair rent to be hereafter paid for the said holding.

(*b*) "Lease" or "Fee-farm Grant."

(*c*) State accurately the parties, and in the case of a lease, the term.

Dated this day of 189 .

Signature,
Occupation or description,

To the (*a*)

Name of solicitor for the (*b*),
Registered place of business.

(*a*) "Lessor" or "Grantor."

(*b*) "Lessee" or "Grantee."

FORM 38.

Consent to Redemption under the Redemption of Rent (*Ireland*) *Act*, 1891.

Court of the Irish Land Commission.

Land Purchase Acts.

In the matter of the estate of , a vendor of land.

I, the above-named vendor, do hereby consent as follows, viz. :—

1. That the Court do make an order pursuant to the provisions of the Redemption of Rent (Ireland) Act, 1891, for the redemption of the rent specified in the schedule hereto, payable to me out of the holding therein described, by , the (*a*) named in the originating notice dated the day of 189 , which has been served on me.

(*a*) "Lessee" or "Grantee."

2. That such redemption be carried into effect by means of a

vesting order under the provisions of the Land Purchase Acts, vesting the said holding in the said (*a*) in fee simple, freed and discharged from all superior interests as defined by Section 31 of the Land Law (Ireland) Act, 1896, and from all other charges and incumbrances.

3. That interest upon the redemption price of the said rent at the rate of four per cent. per annum shall be payable in lieu of the rent from the date hereof until such redemption price shall be paid into Court.

Provided that if the said (*a*) be not entitled to apply to redeem the said rent under the provisions of the Redemption of Rent (Ireland) Act, 1891, this consent shall be void.

Schedule.

County . Barony . Electoral Division .

Reference to Map, to be filled in by Land Commission.	Ordnance Survey Names of Townlands (each on a separate line).	Area, Statute Measure, of the portion of each Townland to be sold.	Tenement Valuation.	Rent paid by Tenant.	Tenure of Tenant, *i.e.* under Fee-farm Grant, giving Date and Parties; or under Lease, giving Date, Parties, and Term.
		A. R. P.	£ *s.* *d.*	£ *s.* *d.*	

Signed by the vendor in presence of
Name,
Address,
Occupation,

Dated this day of 189 .
Signature of vendor,
Postal address,
Occupation or description,

Name of solicitor for vendor,
Registered place of business,

FORM 39.

Notice of Lodgment of Consent to Redemption.

Court of the Irish Land Commission.

Land Purchase Acts.

In the matter of the estate of

, a vendor of land.

SIR,—Take notice that I have this day lodged in the Irish Land Commission a consent to the making of an order for redemption in pursuance of your originating notice, dated the day of 189 .

Solicitor for the said vendor.

To

FORM 40.

Application for an Advance under the Redemption of Rent (Ireland) Act, 1891.

Court of the Irish Land Commission.

Land Purchase Acts.

In the matter of the estate of

, a vendor of land.

Name of tenant,

Description of Holding.

County . Barony . Electoral Division .

Reference to Map.	Ordnance Survey Names of Townlands (each on a separate line).	Area, Statute Measure, of the portion of each Townland to be Sold.	Tenement Valuation.	Rent paid by Tenant.	Tenure of Tenant, *i.e.* under Fee-farm Grant, giving Date and Parties; or under Lease, giving Date, Parties, and Term.
		A. R. P.	£ *s.* *d.*	£ *s.* *d.*	

Date of conditional order for redemption, the day of 189 .

Amount of redemption price, £

Amount of advance required, £

Amount to be paid in cash by tenant, £

I, , the before-named tenant, make oath and say, as follows:—

1. That the foregoing particulars of the holding are true, to the best of my knowledge and belief.

2. I reside on and have been in the occupation of the said holding and paying the rent therefor since the year 18 , and I hold the same as tenant, as in the said schedule is stated (*and the said* (*a*) *is in my* * *possession*).

3. There is not any person in occupation of the said holding as tenant or otherwise save as mentioned in the following schedule:—

(*a*) Fee-farm grant or lease.

* Or, if not, state in whose possession.

If there are no under-tenants, fill in the word "none" where marked * * *

Names of the Persons in Occupation as Under-tenants or otherwise.	Area in Statute Measure.	Rent (if any) payable by such Occupiers.	When Payable.	Tenure or Nature of Occupancy.
* * *	A. R. P.	£ s. d.		

4. There is not any charge or incumbrance affecting my interest in the said holding save those specified in the following schedule :—

Schedule containing Particulars of Mortgages, Charges created by Deposit of Lease or otherwise, or Charges in favour of the Commissioners of Public Works in Ireland affecting the Tenant's Interest in the Holding.

If there are no incumbrances, fill in the word "none" where marked thus * * *

Date.	Name and Address of Incumbrancer.	Particulars of Incumbrance, Mortgage, or otherwise.	Principal Sum due.
	* * *		£ s. d.

5. I hereby apply to the Irish Land Commission for an advance pursuant to the Land Purchase Acts of the sum specified above, the same to be repaid as is by the said Acts provided.

6. I have not obtained from or (except by this application) applied to the Irish Land Commission for an advance of any sum for the purchase of any land *

Sworn before me this day of 189 , at in the county of , and I know the deponent, the whole of the foregoing application and affidavit having been first read over by † , the deponent, who appeared perfectly to understand the same, *and made h mark thereto in my presence.*

* If the tenant has previously applied for any advance write "save an advance of £ &c.," giving the particulars.

† If the deponent be illiterate, here insert "me to."

The words in italics may be struck out unless the deponent be a marksman.

FORM 41.

Notice of Conditional Order for Redemption under the Redemption of Rent (Ireland) Act, 1891.

Court of the Irish Land Commission.

Land Purchase Acts.

Record No.

In the matter of the estate of

, a vendor of land.

SIR,—Take notice, that on the day of 189 , an originating statement was filed on behalf of the said vendor affecting part of the lands of , situate in the barony of and county of , and containing acres roods and perches, statute measure or thereabouts, in the occupation of as tenant to the said vendor under , dated the day of 18 , at the yearly rent of £ ; and that the Court has by order, dated the day of 189 , conditionally ordered the redemption of the said rent at the price of £ , and such redemption will be carried into effect by means of a vesting order under the provisions of the Land Purchase Acts vesting the said lands in the said tenant in fee simple, freed and discharged from all superior interests as defined by Section 31 of the Land Law (Ireland) Act, 1896, and from all other charges and incumbrances.

Your name appearing in the said originating statement as being entitled to [*here state the nature of the superior interest, charge, incumbrance, or other estate or interest to which the person is entitled*], this notice is given to enable you to make any application to the Court that you may be advised in the event of such redemption being prejudicial to your rights.

And further take notice that if no application to the contrary be made by you, by motion to the Commissioner upon notice to me, within fourteen days from the date of the service of this notice upon you, the redemption will be completed in due course without further notice to you.

Dated this day of 189 .

Solicitor for the vendor.

[Registered address.]

To

FORM 42.

Certificate to Register Apprentice or Clerk.

Court of the Irish Land Commission.

I hereby certify that Mr. (*a*) is exclusively employed by me as my (*b*) , and that he is a fit and competent person to transact my business in this Court; and I undertake to be responsible for his acts in the ordinary transaction of my business in the said Court. And I further undertake to be responsible for his receipts for deeds and other documents, and for

(*a*) Name in full.

(*b*) "Apprentice or Clerk."

the safe custody and return of all deeds and documents obtained by him on my behalf.

Dated this day of 189 .

Solicitor.

Address

Witness

FORM 43.

Certificate of Registration of Apprentice or Clerk.

Court of the Irish Land Commission.

day of 189 .

I certify that Mr. is the registered [apprentice or clerk] of Mr. , solicitor of No. street.

, Keeper of Records.

FORM 44.

Writ of Fieri Facias for Costs.

[Heading and title of matter.]

Victoria by the Grace of God of the United Kingdom of Great Britian and Ireland Queen, Defender of the Faith, and so forth, to the sheriff of the county of , greeting,

We command you that, of the goods and chattels of in your bailiwick, you cause to be made the sum of and also interest thereon at the rate of £4 per cent. per annum from the day of 189 , which by order of our Court of the Irish Land Commission, dated the day of 189 , was adjudged to be paid by the said to for costs in the said order mentioned. And that you do cause the said money and interest to be paid to the said in pursuance of the said order, and do make a return to the said Court of the manner in which you shall have executed this writ immediately after the execution thereof.

Dated this day of 189 .

, Registrar.

Levy £ and also interest thereon at £4 per cent. per annum from the day of 189 , besides sheriff's poundage, fees, and expenses of execution, together with the sum of 10*s.* 6*d.* for the costs of this writ.

This writ was issued by , of , solicitor for the said

The said is a , and his place of abode is at in your bailiwick.

FORM 45.

Affidavit to Ground Application for Order for Possession.

Court of the Irish Land Commission.

Land Purchase Acts.

In the matter of the holding of , in the lands of barony county sold by the Irish Land Commission.

I of make oath and say as follows:—

1. That on the day of last, I purchased from the Irish Land Commission that part of the lands of containing statute measure or thereabouts, situate in the barony of and county of .

2. That on the day of last, the Irish Land Commission executed a conveyance to me of the said lands (*or*) by order vested the said lands in me and that such conveyance (*or* vesting order) was not made subject to any tenancies.

3. That on the day of last, I demanded from *E.F.*, whom I found in occupation of the said lands, the possession thereof, and he refused to give me such possession.

4. That at the time of making such demand I produced to the said *E.F.*, a certificate under the hand of the solicitor to the Irish Land Commission of my purchase and my title to the possession of the said lands.

Sworn, &c.

FORM 46.

Order to Sheriff to put Purchaser into Possession.

[Heading and title as in Form 45.]

Upon motion of solicitor for *C.D.*, the purchaser in this matter, and on reading the conveyance by the Irish Land Commission to the said *C.D.*, dated the day of 189 , of (or the order dated the day of 189 , vested in the said *C.D.*) that part of the lands of containing , statute measure or thereabouts, situate in the barony of and county of , and the affidavit of the said *C.D.*, filed the day of 189 .

It is ordered by the Court that the sheriff of the county of do, and he is hereby required and commanded immediately after sight or receipt hereof, to go to the said part of the lands of situate as aforesaid, and without delay to give or cause

to be given to the said *C.D.* or his assigns, the full, quiet, and peaceable possession of the said part of the said lands, with all and singular the appurtenances [save and except the respective parts and portions of the said lands and hereditaments now or lately in the possession of, &c.].

Dated this . day of 189 .

, Registrar.

N.B.—The rules of 16th March 1897 were followed by "Directions as to the Preparation of Abstracts of Title," which are omitted here as they are apparently superseded by Directions of 4th December 1903, *post* p. 550.

Directions as to the Preparation of Affidavits under Order XX., Rule 16.

The title must be set out in the affidavit in as concise a manner as is possible, consistently with clearness. The effect of deeds, wills, and other documents, should, as a rule, be given instead of an abstract in detail of their contents.

The affidavit must state in what manner it is proposed that the price or compensation shall be paid or applied. If the superior interest redeemed be subject to a quit or Crown rent, a matter which can in the case of a fee farm or other rent be ascertained by an inspection of the schedule of incumbrances, such rent would generally be a first charge on the price or compensation, and should therefore be redeemed thereout. If the superior interest redeemed be an impropriate tithe rent-charge, a certificate from the Quit Rent Office showing whether the same be subject to a quit or Crown rent, must accompany the affidavit.

If such superior interest be subject to incumbrances, and it be proposed to apply the price, or compensation, in satisfaction or reduction of an incumbrance, the affidavit should not as a rule set forth the title subsequent to the instrument creating the incumbrance, save so far as may be necessary in order to show in whom such incumbrance is vested; but it should state the name or names of the person or persons entitled to the superior interest subject to incumbrances, and refer to the instrument under which he or they is or are so entitled.

If it be proposed to pay the price or compensation to trustees the affidavit should show that they are entitled to receive the same as being trustees with a power of sale, or trustees for the purposes of the Settled Land Acts or otherwise as the case may be.

If it be proposed to pay such price or compensation or part thereof

to a person or persons beneficially entitled, the affidavit must, unless the Commissioner otherwise directs, be made by such person or persons, and must contain a statement to the effect that the deponent has not charged, incumbered, or dealt with his estate in such superior interest, or the price or compensation representing the same save as appears by the affidavit.

N.B.—The rules of 16th March 1897 include a Schedule of Solicitors' fees, but as this Schedule is apparently superseded by the Schedule of 4th December 1903 (*post* p. 541), it is not printed here.

RULES.

Rule, dated this 29th day of April 1899.*

It is this day ordered that Rule 1 *of Order XVIII. of the Rules under the Land Purchase Acts, dated* 16*th March* 1897, *shall be read and construed as if the words "two months" were substituted for the words "fourteen days" in the said Rule.*

Rule, dated March 19, 1900, varying Rule 2 of Order XIX. of the Rules of the Irish Land Commission, dated March 16, 1897, made in relation to proceedings under the Land Purchase Acts.†

1900. No. 179.

It is this day ordered that, notwithstanding the provision of Rule 2, *Order XIX., of the Rules dated* 16*th March* 1897,‡ *the particulars prescribed by Rule* 1 *of the same Order may be transmitted to the Register of Titles in the form of a copy of the Vesting Order, certified by the Examiner as "a true copy transmitted to the Registrar of Titles for the purpose of Registration," and the provision of Rule* 3 *of the same Order shall apply as if such copy were the Schedule therein referred to.*

Rules, dated May 17, 1901, made by the Irish Land Commission, under the Land Purchase Acts supplemental to and amending the Rules dated March 16, 1897, April 29, 1899, and March 19, 1900.

1901. No. 394.

It is this day ordered that the following General Rules and Orders shall, from and after this date, and until further order, take effect and be in force in the Irish Land Commission in relation to proceedings under and in pursuance of the Land Purchase Acts as defined by the Land Law (Ireland) Act, 1896.

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* This Rule is rescinded by Order VI., Rule 1 of Rules of 4th December 1903, *post* p. 525.

† This Rule is rescinded by Order VII., Rule 1 of Rules of 4th December 1903, *post* p. 525.

‡ See page 387 *ante*.

Order I.

Inspection of Holding.

Rule 1 of Order XIV.* of the Rules dated 16th March 1897, shall be amended by adding thereto the following proviso, viz. :—

Provided that if the Commissioner be otherwise satisfied as to the security for the advance, and that the purchaser is in exclusive occupation of the holding, he may either dispense with the inspection, or limit the reference as he shall think fit.

Order II.

Apportionment and Redemption of Superior Interests.

Statement of facts may be dispensed with.

1. Where the application for the apportionment of impropriate tithe rent-charges, quit or Crown rents, rents, fees, duties, services, rent-charges, or annuities, is grounded on a consent or consents embodying the information necessary for making up the order, the Commissioner, if satisfied that the consent or consents have been signed by or on behalf of all necessary parties, may, if he think fit, dispense with the lodgment of a statement of facts, and may thereupon make a final order for apportionment in the terms of such consent or consents.†

Application for redemption to be made at hearing of final schedule of incumbrances.

2. Applications for orders for the redemption of all superior interests affecting the land sold shall, if possible, be made at the hearing of the final schedule of incumbrances.

Order III.

Allocation.

Proceeds of Sales by Vendors to Tenants not paid into the High Court.

Final schedule of incumbrances.

1. As soon as the registry of deeds and judgment searches shall have been made, and all acts appearing on them explained, a draft final schedule of incumbrances shall, unless dispensed with as hereinafter provided, be brought in by the vendor or his solicitor for settlement by the Examiner. Such schedule shall show all charges which, having regard to the abstract of title, the result of the searches or otherwise, shall appear to affect the lands, or to be a lien upon or payable out of the purchase money, and shall be

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* See page 382 *ante*.

† In every case where an application grounded upon consent is intended to be made to a Judicial Commissioner for an order to apportion or redeem a rent, rent-charge, or other superior interest, then unless the title of the persons signing the same has been vouched upon the Schedule of Incumbrances, or otherwise ruled by an Examiner, the consent must (in addition to the affidavits verifying signatures) be accompanied by an affidavit or affidavits stating concisely the nature of the title of the signatories to the consent—*i.e.* whether absolute owners, tenants for life, trustees, or otherwise—and indicating, when necessary, the deed or other document under which such title is derived. When rulings on title have been issued, the rulings must be produced by the party applying to have the consent made a rule of Court.

prepared in accordance with directions to be issued by the Judicial Commissioner.

Judicial Commissioner to rule schedule of incumbrances and allocate.

2. The schedule of incumbrances when settled, shall be listed for hearing before the Judicial Commissioner in Court, and all subsequent proceedings in relation to the allocation of the fund shall be conducted before him.

Schedule of incumbrances dispensed with in certain cases.

3. Subject to any direction that may be given by the Judicial Commissioner the lodgment of a schedule of incumbrances shall be dispensed with where the Examiner shall certify such schedule to be unnecessary.

Final notice to claimants.

4. Contemporaneously with the filing of the schedule of incumbrances a final notice to claimants shall be prepared by the vendor or his solicitor and settled by the Examiner; it shall follow a form to be prescribed by the Judicial Commissioner, with such additions as the nature of the case may require, and shall be in every case served on the following classes of person unless otherwise directed:—

(*a*) All persons named as claimants on the schedule.
(*b*) All persons who have lodged deeds subject to lien.
(*c*) All persons who have entered general appearances in the matter, or special appearances requiring notice of the lodgment of the schedule.

It shall also be served on such other persons and shall be published in such manner as may be directed.

Objections to schedule of incumbrances.

5. Any person may file an objection to the schedule of incumbrances within the time specified in the notice, which objection shall state the facts and documents relied on in support thereof, and shall be verified by the affidavit of the objector, or, if the Judicial Commissioner allows, of his solicitor, or, in special cases, of such persons as may be allowed. Notice of every objection must be served at the time of the filing thereof on the vendor or his solicitor, and on the persons affected thereby; and on the hearing of the schedule such objections shall be heard and disposed of.

Vouching services of final notice to claimants.

6. Not less than two days before the day appointed for the hearing of the schedule, the vendor or his solicitor shall attend at the Examiner's office for the purpose of vouching the services and publications of the final notice to claimants, and shall produce a certificate of any objections filed, and the receipt of the Keeper of Records for the lodgment of registry of deeds and judgment searches made in the matter.

Rulings on schedule of incumbrances.

7. The rulings of the Judicial Commissioner made on the hearing of the schedule of incumbrances may be entered on the schedule in a column reserved for that purpose, but the Judicial Commissioner

shall, at the instance of any party interested, cause to be prepared an order in conformity with any such ruling, which shall be entered in the "Order Book." The schedule so ruled shall not be taken out of the Office without permission of a Commissioner.

8. Rule 1 of Order XXI. of the Rules dated 16th March 1897, relating to the preparation of allocation schedules, shall apply only to cases in which the lodgment of a final schedule of incumbrances is dispensed with.

Order IV.

Abstract of Title.

So much of the Directions as to the preparation of Abstracts of Title in the Appendix to the Rules dated 16th March 1897, as provides that an extract from the patent under which the lands are held shall be given is hereby rescinded.

Order V.

Costs.

The costs of any proceedings under these Rules to which the schedule of fees in the Appendix to the Rules dated 16th March 1897, is not applicable shall be taxed according to the schedule of fees now in force in relation to the same or analogous proceedings before the Land Judges.

Irish Land Commission.

Land Purchase Acts.

Directions as to the Preparation, Settlement, and Vouching of Final Schedules of Incumbrances.

16*th day of January* 1901.

1. When bringing in the draft final Schedule of Incumbrances for settlement the solicitor should produce—

(*a*) The Rulings on Title.
(*b*) The Draft Requisition for Searches as settled.
(*c*) The Registry of Deeds and Judgment Searches.
(*d*) Certificates from the Quit Rent Office, the Land Commission, and the Board of Public Works specifying respectively the Quit or Crown Rents, Tithe rent-charges, or Tithe annuities, and Land Improvement or Drainage charges affecting the lands.

(*e*) A certificate as to whether Deeds have been lodged subject to lien.

(*f*) Office copies of any orders that may have been made for apportionment or redemption of superior interests as defined by Section 31 of the Land Law (Ireland) Act, 1896.

(*g*) A certificate of the appearances entered in the matter.

2. The Schedule shall be on writing large post paper, with parchment back, and shall be in Form A. It shall, unless the Judge otherwise directs, be settled as regards all the lands comprised in the originating statement, except such as are therein stated to be excluded from the proceedings.

3. The Schedule shall show all charges which, having regard to the abstract of title, and the result of the searches, shall appear to affect the lands, or to be a lien upon or payable out of the purchase money; and the charges shall be placed in such order of priority as may appear to be in conformity with the *primâ facie* rights of the parties; and shall also show, as nearly as can be ascertained, the sums due for principal, and such Schedule shall also state the name or names of the person or persons who may be entitled to the surplus fund after payment of charges.

4. Charges in equal priority should receive the same number and a distinguishing letter, and there should be a statement at the foot that they are in equal priority.

5. The name, description, and address of every party entitled to any charge should be accurately stated, and the date of registration, parties' names, and short description of the instrument by which it is created; if it is founded upon a judgment, the sum recovered, the year, and term, and Court, and the names of the parties to the judgment should be stated. When the claimant is not the original mortgagee, the devolution should be concisely but accurately stated as far as practicable.

6. Superior interests affecting the lands (except rent-charges or annuities in the nature of incumbrances) should usually appear in priority to all incumbrances and to the costs of the proceedings.

7. Annual charges, such as Quit Rents, Tithe Rent-charges, Head Rents, Board of Works charges and annuities, should be described as such; but when an order for their apportionment or redemption has been made, a note of it should be inserted in the column, "Particulars of Demand"; and if the price has been fixed, it should be inserted in the "Principal" column; and, unless each of such charges affects all the lands, the denominations which each affects should be stated.

8. Costs awarded by order to any party against the fund, and costs

of lodging deeds pursuant to notice or order, should appear as distinct items on the Schedule; but costs awarded to any claimant as payable with his demand, and the costs of the proof of any claim on the Schedule, and the arrears of any rent, rent-charge, or annuity should not appear as distinct items, but be inserted in the proper columns opposite the particulars of the demand.

9. When the vendor is a tenant for life, there should be set out, after the demand of the trustees of the settlement for the residue, any charges upon the life estate, describing them as such.

10. If different portions of the estate are subject to different incumbrances, the Schedule should be prepared in parts; but if there be common incumbrances as well, they should be set out *in extenso* and vouched in one part only, and briefly referred to in the other parts.

11. The Examiner shall endorse in the fold of the Schedule any special directions as to the form, service, or publication of the Final Notice to Claimants.

12. Four clear weeks from the date of the last service or publication should usually be allowed for filing objections to the Schedule, but the time may be curtailed where the title to the several charges has been shown, and no question as to the priority or validity of any charge is likely to arise, or where all the claimants have appeared by solicitor; provided that in no case shall less than 10 days be allowed for filing objections, except by order of the Judicial Commissioner.

13. Publication of the final notice to claimants may be dispensed with by leave of the Judicial Commissioner where the title to the lands sold is registered under the Local Registration of Title (Ireland) Act, 1891, or in other proper cases where the general notice to claimants would appear to have given sufficient publicity to the proceedings.

14. When the final schedule of incumbrances is being vouched, the vendor's solicitor shall lodge with the Examiner a memorandum stating—

(*a*) The particulars of the funds standing to the credit of the matter, distinguishing between cash and guaranteed land stock or other securities, and between money or securities retained as guarantee deposits or for any other purpose, or standing to a separate credit, and such as may be standing to the general credit of the matter:

(*b*) If any claim on the schedule of incumbrances affects particular denominations only, how much of the fund represents the proceeds of the sale of such denominations, and whether

the entire has been sold or not, in so far as such information may be necessary for the allocation:

(*c*) The order asked for in respect of each claim:

(*d*) The order asked for concerning the rights of the parties as regards any guarantee deposit registered in the title of the matter, or whether it is desirable for any reason that the making of such order should be postponed.

15. Where any claimant whose name appears on the schedule of incumbrances desires to waive his claim or priority, either wholly or in part, he shall, unless the Judge shall otherwise direct, lodge a consent in writing signed by himself and verified, or signed by a solicitor who has appeared for him, provided such solicitor shall not also represent the vendor or any person whose interest might be hostile to that of the claimant.

R. E. MEREDITH.

FORMS.

FORM A.

Final Schedule of Incumbrances.

COURT OF THE IRISH LAND COMMISSION.

LAND PURCHASE ACTS.

Record No.

In the Matter of the Estate of A.B., a Vendor of Land.

Schedule of Incumbrances and all claims on foot of Incumbrances affecting the Lands the subject of the Originating Statement filed the day of 190 .

Lodged the day of 190 .

N.B.—Not more than three distinct charges should be inserted on any one page, nor should the statement of a charge be commenced at the foot of a page and carried over.

No.	Date.	Name Addition and Residence of Claimant.	Particulars of Demand.	Principal.	Rate per cent.	Interest to the day of 19 .	Costs.	Total due for Principal, Interest, and Costs.	Direction issued to Accountant.	Rulings of Judge.
				£ s. d.		£ s. d.	£ s. d.	£ s. d.		

FORM B.

Final Notice to Claimants and Incumbrancers.

COURT OF THE IRISH LAND COMMISSION.

LAND PURCHASE ACTS.

Record No.

In the Matter of the Estate of A.B., a Vendor of Land.

Take Notice that the Final Schedule of Incumbrances affecting (here describe the lands as they appear in the Originating Statement, omitting the acreage in the case of entire townlands) [parts of] which have been sold [and the residue of which it is contemplated selling] under the above Acts in fee simple freed and discharged from all superior interests as defined by Section 31 of the Land Law (Ireland) Act, 1896, and from all other charges and incumbrances, has been lodged in my Office at 24 Upper Merrion Street, Dublin; and any person having any claim not therein inserted, or objecting thereto, either on account of the amount or the priority of any charge therein reported as due to him or to any other person (*here insert any special matter*), or for any other reason, is required to lodge an objection thereto, stating the particulars of his demand and duly verified, with the Registrar of this Court, on or before the day of , 190 , and to appear on the following day, the day of , 190 , at o'clock, before the Judicial Commissioner, at his Court at the Four Courts, Dublin, when he will adjudicate upon the several claims appearing on the Schedule, and upon any objections lodged thereto. And further Take Notice that any demand reported by such Schedule is liable to be objected to within the time aforesaid.

Dated this day of 190 .

Solicitor for the Vendor

Examiner.

RULES, DATED MARCH 14, 1902, RELATING TO PROCEEDINGS UNDER THE PURCHASE OF LAND (IRELAND) ACT, 1889, AND THE PURCHASE OF LAND (IRELAND) (No. 2) ACT, 1901.

1902. No. 252.

IRISH LAND COMMISSION.

It is this day ordered that the following General Rules shall, from and after this date, and until further order, take effect and be in force

in the Irish Land Commission in relation to proceedings under the Purchase of Land (Ireland) Amendment Act, 1889, and the Purchase of Land (Ireland) (No. 2) Act, 1901.

1. An Agreement between a Vendor and Purchaser for sale and purchase of land under the provisions of the above-mentioned Acts shall (in cases where the sale of his holding is not about to be made to such Purchaser under the Land Purchase Acts) be in the form (No. 10A) in the Appendix hereto, or as near thereto as circumstances will permit.

2. Where such Purchaser is the proprietor of a holding charged with an annuity under the Land Purchase Acts, there shall be lodged with the agreement the Land Certificate, evidencing his title to such holding unless same be already lodged with the Land Commission.

3. Save as aforesaid, the proceedings in relation to sale and purchase shall be in accordance with the general rules, orders, forms and directions at present in force in relation to sales under the Land Purchase Acts in so far as such rules, order forms and directions may be applicable, PROVIDED that in any case in which the Judicial Commissioner is satisfied that the Vendor is *primâ facie* entitled to carry out a sale or sales under the provisions of the above-mentioned Acts, he may, if the justice of the case so requires, by ruling signed by him, dispense with the observance of such of the said rules, orders or directions as he may specify in such ruling.

FORM NO. 10A.

Impressed or Postage Stamp of value of 6d. If Postage Stamp be used, the party who first signs the Agreement must write his name or initials and the date across the Stamp.

Agreement for Sale under the Purchase of Land (Ireland) Amendment Act, 1889, *as amended by the Purchase of Land (Ireland) (No.* 2) *Act*, 1901, *where a sale of the Purchaser's holding is not being made under the Land Purchase Acts.*

COURT OF THE IRISH LAND COMMISSION.

An Agreement made the day of 19 between of hereinafter called the Vendor, and of hereinafter called the Purchaser.

1. In case the Irish Land Commission shall advance the sum of £ guaranteed land stock to the Purchaser for the purchase of the lands described in the Schedule hereto being additional land

within the meaning of the said Acts the Vendor will sell and the Purchaser will purchase the same in fee simple (*a*)

at the price of £ (*b*) *which sum is to include all expenses incidental to the purchase.*

2. The Sale shall be carried out by means of a Vesting Order.

3. The Lodgment of this agreement with the Irish Land Commission is to be deemed an application by the Purchaser for an advance pursuant to the Land Purchase Acts, as amended by the Purchase of Land (Ireland) (No. 2) Act, 1901, to be repaid as is by the said Acts provided.

(*a*) Here insert any exceptions or reservations coming within Section 31, Sub-section 2, of the Land Law (Ireland) Act, 1896, or any superior interests which the Vendor and Purchaser propose that the sale shall be subject to.

(*b*) If the Purchaser is to pay the Stamp Duty the words in italics should be struck out.

Schedule.

County Barony Electoral Division

Reference to Map.	Ordnance Survey Names of Townlands (each on a separate line).	Area, Statute Measure, of the portion of each Townland to be sold.			Tenement Valuation.			Name of Person now in occupation and nature of his occupancy.
		A.	R.	P.	£	s.	d.	

N.B.—The lands must not exceed 10 acres statute measure in area, unless the tenement valuation be £10 or under. If the lands are not separately valued the approximate valuation should be given. The map must show the relative positions of the lands and the existing holding.

And I, the above-named Purchaser, do hereby declare:—

1. That the Particulars stated in the foregoing Schedule are true to the best of my knowledge and belief.

2. That I am the { registered owner / *or* / tenant } of a holding in the Townland of Barony of and County of which *was purchased by under the Land Purchase Acts for the sum of £ in the Matter of the Estate of a Vendor of Land* [or] *I hold as tenant to* (*c*)

NOTE.—Strike out such part of paragraphs 2 and 3 as are not applicable.

(*c*) Here state name of landlord, tenure of tenant and rent.

3. That the land described in the said Schedule *adjoins* (or) *is required by me for the suitable and convenient use and enjoyment of* the said holding.

If the Purchaser has previously applied for any advance, write "save an advance of £ &c.," giving the particulars.

4. That, save as is above disclosed, I have not obtained from or applied to the Irish Land Commission for an advance for the purchase of any land.

Signed by the Vendor in the presence of	Signature of Vendor
Name	Postal Address
Address	
Occupation	

The words in italics may be struck out unless the Purchaser is illiterate.

Signed by the Purchaser in presence of (*the Agreement having first been read and explained to him in my presence*)	
Name	Signature of Purchaser
Address	Postal Address
Occupation	Occupation or description

ESTATES COMMISSIONERS.

PROVISIONAL RULES UNDER SECTIONS 1 TO 23 OF THE IRISH LAND ACT, 1903.

Dated 23rd October 1903.

In pursuance of the provisions of Section 23, Sub-section 13, of the Irish Land Act, 1903, the Judicial Commissioner and the Estates Commissioners with the approval of the Lords Justices, and after consultation with the President of the Incorporated Law Society of Ireland, hereby order that the following rules shall, from and after the 1st day of November 1903, and until further order, be in force in relation to all proceedings for the purpose of carrying into effect the provisions of Sections One to Twenty-three of the said Act.

Initiation of Proceedings.

1. Proceedings for Sale under the Irish Land Act, 1903, by a Vendor for the sale of an Estate to persons other than the Land Commission shall be commenced by an Originating Application in Form "A" in the Appendix hereto, with such variations as the nature of the case may require, and shall be accompanied by a Map or Maps as prescribed in Rules 9 to 13 of these Rules.

2. Application by a Vendor to the Land Commission to inquire into the circumstances of an Estate with a view to the purchase of the Estate from him shall be made by Originating Request in Form "B" in the Appendix hereto with such variations as the nature of the case may require, and shall be accompanied by a Map or Maps as prescribed in Rules 9 to 13 of these Rules.*

3. Originating Applications and Originating Requests shall be verified by the affidavit of the Vendor or Vendors, or, if the Commissioners shall permit, of the Vendor's Land Agent or Solicitor, who shall state his means of knowledge, and why the Statement is verified by him and not by the Vendor, and such applications and requests shall be on post paper bookwise.

4. Each Originating Application and Request shall be endorsed with the name and registered place of business of the Vendor's

* See Sect. 6, Act 1903, *ante* p. 16.

Solicitor, with an address within the municipal boundary of the City of Dublin where notices, orders, and other documents may be sent to him; or, if no such Solicitor is employed, with an address where notices, orders, and other documents may be sent to the Vendor.

5. Except with the authority of the Land Judge no Originating Application or Request shall be received by the Commissioners comprising any land in respect of which proceedings for sale or declaration of title are pending before the Land Judge.

6. When a person desires to sell under the provisions of the Irish Land Act, 1903, an Estate, part or the whole of which is comprised in an Originating Statement already lodged in the Land Commission, he shall before lodging an Originating Application or Request take the directions of the proper officer as to its preparation with a view to avoiding the repetition of matter disclosed by the proceedings originated by such Statement and as to the extent to which the abstract of title and other documents already lodged may be utilised in the new proceedings.

7. Originating Applications and Requests shall be lodged in the Office of the Estates Commissioners, in which Office they shall be marked with a record number indicating the order in which they have been received.

8. Proposals by persons desiring to sell to the Land Commission any untenanted land under Section 8 of the said Act may in the first instance be made to the Commissioners by letter containing full particulars of the lands proposed to be sold and the price suggested.*

Maps.

9. With every Originating Application or Request the Vendor shall lodge an Ordnance Map on the 6-inch scale neatly mounted on strong linen.

10. The Map shall be accompanied by

(*a*) A certificate of the Tenement Valuation obtained from the Office of the Commissioner of Valuation and Boundary Surveyor.

(*b*) A Schedule of Areas which shall be in the form "D," or in such other form as the Commissioners may from time to time direct.

(*c*) An Affidavit from a competent surveyor stating that deponent visited the lands and examined the Map upon the ground,

* See Sect. 8, Act 1903, *ante* p. 31.

that the several holdings, parcels of land and demesne, proposed to be sold, are correctly marked on the said Map and that the Schedule of Areas is correct.

11. Every Map shall show the boundaries in distinctive colours of:—

(1.) The holdings.

(2.) The demesne and parcels of land which the Vendor desires to sell and not repurchase.

(3.) The demesne and parcels of land which the Vendor desires to sell and repurchase.

(4.) Any other lands in the neighbourhood, demesne or otherwise, which the Vendor owns but does not desire to sell.

12. Where the holdings are so small that the 6-inch scale is insufficient an Ordnance Map on a larger scale may be used, or an enlargement of the smaller holdings may be made.

13. Maps shall be prepared and furnished by Townlands or groups of Townlands, and shall when practicable not exceed 18 inches by 12 inches in size, and in every case the names of the adjoining Townlands shall be shown upon the Map. In no case should more than one Map be used for Sales of parts of the same Townland, and the Commissioners may reject any Map which appears to them incorrect, insufficient, or unsuitable, and require a correct Map to be prepared at the expense of the Vendor.

Primâ Facie Evidence of Title.

14. When the Originating Application or Request has been received the Vendor or his Solicitor shall attend before the proper officer with the documents specified in such Application or Request as *primâ facie* evidence of title and with the evidence of the receipt of the rents and profits proposed to be given and take his directions thereon.*

15. If the production is required of the Original of any Deed or Document not in the possession of the Vendor relating to lands comprised in any Originating Application or Request the Commissioners may order any person having the custody of such Deed or Document to produce or lodge the same on such terms as to lien, costs, or otherwise, as may be just.

16. As soon as such evidence is considered satisfactory the Land Commission shall publish an advertisement in the Form "E," with

* The documents are lodged in the Record Office of the Land Commission with a Schedule of deeds in duplicate. A complete verified abstract of title can at this stage be lodged if the Vendor so desires. See Directions of 22nd November 1905, *post* p. 558.

such variations as the nature of the case may require, in the Dublin Gazette, or otherwise as the Commissioners may direct, and shall by registered letter transmit a notice in the same Form to each of the persons appearing to be interested in the Estate or to such of them as the Commissioners think fit.*

17. After the time mentioned in such advertisements and notices has elapsed the Commissioners may, unless some valid reason has been shown in the meantime why they should not do so, deal with the Vendor as the owner of the land for the purposes referred to in Section 17 of the Irish Land Act, 1903.

18. A Certificate that the Commissioners think fit to deal with the Vendor as the owner of the land shall be prepared by the Commissioners, which shall specify the lands to which it applies, the advertisements and notices which have been made, and the documents and evidence acted upon.

Agreements for Purchase.

19. Agreements for Purchase between Vendor and Purchaser of a holding shall be in one of the Forms "F" or "G," and those between Vendor and Purchaser of a parcel of land in the Form "H," and those between Vendor and Trustees under Section 4 of the said Act shall be in Form "I," with such variations as the nature of the case may require.

20. All such Agreements shall be on stout writing medium paper, and shall be endorsed with the Record Number, County and Name of Vendor. They shall be signed by the Vendor and Purchaser or some person acting under a Power of Attorney on their behalf, and shall be prepared in accordance with the directions annexed to the several forms. Save with the consent of the Commissioners no agreement shall be received after the expiration of two months from the execution thereof by the Tenant.

21. The reservation of mineral rights under Section 13, Sub-section (3), of the said Act shall be made by express declaration and words inserted in the vesting order or fiated agreement.†

Advances in Cases where the Provisions of Section 1, Sub-section 1, are not complied with.

22. When it is proposed that an advance shall be sanctioned by the Estates Commissioners and the provisions of Section 1, Sub-

* See Sect. 17, Act 1903, *ante* p. 52.
† See Sect. 13, Act 1903, *ante* p. 37.

section 1, of the said Act are not complied with, Notice to all persons interested shall be published in Form "K," with such variations as the nature of the case may require, by the Commissioners in the Dublin Gazette, or otherwise, as they may direct, of their intention to make such proposed advance, and Notice of the proposed advance shall be given by them by registered letter in the said Form to all persons interested in the Estate so far as known to the Commissioners.

Purchase by the Commission of Estates, Demesnes, or Other Lands.

23. The time within which the Vendor shall signify to the Estates Commissioners that he agrees to sell an Estate or other lands at the price estimated by them and the time within which the Vendor shall signify to the Commissioners that he agrees to repurchase any Demesne or other land shall be one month from the date of the notification to him by the Commissioners of the terms upon which they propose to purchase such estate and to purchase and resell such Demesne or other lands, and if within the said month the Vendor does not notify to the Commissioners that he accepts the terms aforesaid he shall be deemed to have refused to sell such Estate and to repurchase such Demesne or other land.*

24. The time within which any person entitled in remainder or reversion to any land resold to the Vendor shall apply to the Judicial Commissioner that the lands so resold shall devolve in accordance with the terms of a Settlement shall be six months from the date of such resale.†

Estates in Land Judges' Court.

25. When it appears expedient to the Commissioners to take steps with a view to the purchase of an Estate for the sale of which an absolute order has been made under the Landed Estates Court (Ireland) Act, 1858, the Commissioners shall in the first instance request the Land Judge to cause them to be furnished with the following particulars and documents:—

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* See Sects. 6 (2) and 3 (5), Act 1903, *ante* pp. 16 and 12.
† See Sect. 3 (4), Act 1903, *ante* p. 12.

(*a*) Where a rental has been settled of the Estate which is the subject of such Request, two copies of such rental, one of which shall be attested and have a Sealed Map annexed.

(*b*) The particulars contained in the Schedule mentioned in the next paragraph, and particulars of the Superior Interests to which the Estate is subject unless such particulars are included in such rental.

(*c*) Where no rental of such Estate has been so settled a rental prepared by such person and in such manner as the Land Judge may direct, containing particulars of all tenanted and untenanted lands comprised in the Estate, with a Schedule in the Form "L," with such variations as the nature of the case may require, and a statement of the Superior Interests to which the Estate is subject.

(*d*) The Surveyor's Report and Map, if there has been a survey, or if there has been no survey and the Land Judge so directs a map and schedule of areas prepared in accordance with these Rules so far as they are applicable.

(*e*) A copy of the last account passed by the Receiver, where there is a receiver, or by the Agent, as the case may be, and a certificate of the existing tenement valuation.*

Sub-Tenants.

26. Where the Commissioners declare, pursuant to the provisions of Section 15 of the Irish Land Act, 1903, that a sub-tenant of a parcel of land shall be deemed a tenant and that such parcel of land shall be deemed a holding, a copy of such declaration shall be sent by the Commissioners by registered letter to the Vendor and the Owner of the intervening interest.

27. The time within which the Vendor and the Owner of an intervening interest may notify to the Commissioners their agreement as to the price of the intervening interest shall be one month from the date of the posting of the declaration mentioned in the last preceding rule.

28. Any person aggrieved by a decision of the Commissioners under this Section may appeal to a Judicial Commissioner by Notice of Motion served on all necessary parties through the Notice Office of the Commission within fourteen days of such decision or the notification thereof.†

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* See Sect. 7, Act 1903, *ante* p. 20.

† See Sect. 15, Act 1903, *ante* p. 47.

Orders Vesting Land in the Land Commission.

29. Before any order vesting any land in the Land Commission is made, the Commissioners shall publish in the Dublin Gazette or otherwise, as they may direct, advertisements in Form "M," with such variations as the nature of the case may require, and notice in the said form shall be given by registered letter to such of the parties interested in such land as the Commissioners may think necessary.

30. An application by any person interested in any land by way of cause shown against the making of such vesting order shall be made by notice to the Commissioners, and the time within which such application shall be made shall be two months from the date of the publication of the notice of the intention of the Land Commission to make such order.*

Manner of Making Offers under Section 19.

31. An offer by the Commissioners where they have purchased an Estate to make an advance to a Tenant who has not agreed to purchase shall be made on notice in Form "N," with such variations as the nature of the case may require, served on him personally, or by registered letter.†

Minors and Lunatics.

32. Where a person to whom it is necessary that any offer should be made by the Commissioners is a minor, or a person of unsound mind, not so found by inquisition, the Commissioners may appoint a guardian of such person for the purpose of any such proceedings, and may from time to time change such guardian.

33. It shall be the duty of any person who shall under the foregoing rule be appointed guardian of a person of unsound mind within ten days from the date of his appointment to lodge with the Registrar in Lunacy a copy of the order appointing him such guardian, and to apply to the Lord Chancellor for such order (if any) as may be required.

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* See Sect. 16, Act 1903, *ante* p. 50.
† See Sect. 19, Act 1903, *ante* p. 71.

Determination of Disputes Respecting Boundaries, etc.

34. Applications by proprietors of holdings purchased under the Land Purchase Acts to determine questions respecting the boundaries of the holdings, easements or appurtenances, shall be on Form "O," with such variations as the nature of the case may require, and after being signed by all parties interested shall be forwarded to the Commissioners, who will communicate to such proprietors and parties the time and mode in which they will proceed, if they think fit so to do, to inquire into and determine the questions in dispute.*

Ancient Monuments.

35. Where any land proposed to be sold under the Land Purchase Acts contains any ancient Monument, application to the Commissioners with a view to having the same dealt with under the provisions of Section 14 of the Irish Land Act, 1903, may be made by the Vendor or Purchaser, or by any public body or association interested in the preservation of same.†

Turbary on Holdings.

36. Regulations made by the Commissioners in pursuance of Section 21 of the said Act shall be in writing and shall be deposited in the Record Office of the Land Commission, and copies thereof shall be sent to such persons as the Commissioners may direct, and certified copies may be obtained by any parties interested.

37. Any such regulations may provide for the punishment of any breach thereof by a fine not exceeding Five Pounds recoverable in a summary manner.‡

Sanction of Advance.

38. The decision of the Commissioners on an application for an advance shall be signified by a minute or order endorsed upon the agreement or application.

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* See Sect. 22, Act 1903, *ante* p. 74.
† See Sect. 14, Act 1903, *ante* p. 46.
‡ See Sect. 21, Act 1903, *ante* p. 72.

Register of Persons interested in the Estate.

39. There shall be kept for each Estate a Register of the persons upon whom the Commissioners direct notice to be served of the intention of the Commissioners to deal with a Vendor as the Owner of the Estate and also of any other persons who may apply to be heard as, or appear to be, persons interested in the Estate.

Entitling and Filing of Documents.

40. All statements, notices, orders, affidavits, consents, undertakings, certificates, and other documents for the purpose of any proceeding, shall, unless otherwise directed by Rule, be headed "Irish Land Commission—Estates Commissioners," and be endorsed with the Record Number, and shall be entitled "Estate of *A.B.*," or, if the Vendor or Vendors be a trustee or trustees for sale or with power of sale, "Estate of *A.B.* and *C.D.*, trustees for sale (*or*, with power of sale) under the Will dated of *E.F.* deceased (*or*, of the Estate of *E.F.* under Indenture dated).

Delay in Conduct of Proceedings.

41. If any case appears not to have been prosecuted with due diligence, the person having the carriage of the proceedings or his solicitor shall be required by notice in writing to attend before the Commissioners to explain the reason of the delay. The Commissioners may, if they think fit, transfer the carriage to some other party interested, or may dismiss the proceedings, and in either case may make such order as may seem right as to costs, and may order the transfer of all papers and documents connected with the case.

Change of Parties by Death, etc.

42. A person claiming to be entitled to have the proceedings continued in his name by reason of the death of the Vendor, or transmission or change of his interest, shall, before applying to the Commissioners, obtain a report from the proper officer upon his title to have the proceedings so continued in his name.

Time.

43. In the computation of time for the purposes of these Rules the word "month" shall mean calendar month, and the period of a month shall not be extended by reason of any intervening holiday, but when the time limited is a fortnight or any less period, the time so limited shall be extended by any intervening holiday or holidays except Sundays.

The computation of time by days shall be exclusive of the first and inclusive of the last day.

Whenever the time limited expires on a Sunday or other holiday it shall be extended to the next day on which the offices of the Commissioners shall be open.

The Commissioners shall have power to enlarge or abridge the time appointed by these Rules for doing any act, or taking any proceedings, upon such terms, if any, as the justice of the case may require, and any such enlargement may be applied for and ordered after the expiration of the time appointed or allowed.

Construction of Terms.

44. In these Rules, unless the context shall otherwise require, Commissioners shall mean Estates Commissioners.

No Fees to be Charged by Officers of Estates Commissioners.

45. With a view to limiting the costs and expenses of Vendors no fees shall be payable under these Rules in respect of any duties performed by the officers of the Commissioners, nor shall there be charged any office fee for the filing of any document, and all publications and advertisements directed by the foregoing Rules shall be made without charge to the Vendor.

Applications and Communications.

46. All applications and communications on official business shall be by letter addressed to the Estates Commissioners, and not to any Commissioner by name.

(Signed)

R. E. MEREDITH.
FREDK. S. WRENCH.
ML. FINUCANE.
WM. F. BAILEY.

[Form "A."

IRISH LAND COMMISSION.

ESTATES COMMISSIONERS.

ORIGINATING APPLICATION.

Estate of *A.B.*, County

I, *A.B.*, of in the County of

Omit any portions of this form which are not applicable to the facts of the case.

hereby make oath and say as follows:—

1. I am within the meaning of the 17th Section of the Irish Land Act, 1903, a person having power to sell the Estate and Lands, particulars of which are set forth in the First Schedule hereunto annexed, which Estate and lands are shown on the Map lodged herewith.

2. For not less than six years immediately preceding this Declaration I *

* Or I and my immediate predecessor in title *C.D.* of

have been personally or by an Agent in receipt of the rents and profits of the said Estate and lands.

If this is not the case the Vendor must state clearly to whom the rents and profits have been paid during the period in question.

3. I am the Owner of other lands in the neighbourhood of the Estate and lands included in the First Schedule which I do not propose to sell; such other lands are marked in outline upon the said Map (or on an accompanying Map as the case may be).

4. I apply that the lands mentioned in the part or parts of the said First Schedule hereto may be declared fit to be regarded as a separate Estate for the purposes of such Sale, and I apply that the Land Commission may purchase the Demesne and lands in my occupation mentioned in the part of the First Schedule.

Specify the portions which the Vendor desires to have regarded as a separate Estate.

5. In the Fourth Schedule hereunto annexed I have set forth the particulars of so much of the Demesne lands and other lands in my occupation as I am desirous of repurchasing from the Irish Land Commission.

6. As *primâ facie* evidence of my power to sell the said Estate and other lands mentioned in the said First Schedule, I refer to the deeds and other documents specified in the Second Schedule hereunto annexed.

7. The said Estate and lands are held by the tenure mentioned in the said First Schedule and are subject to the superior interests therein referred to.

8. I am the absolute Owner of the said Estate and lands,

or I am the Owner as Tenant for life of the said Estate and lands under a Settlement or Will dated and *C.D.* of and *E.F.* of are the trustees for the purposes of the Settled Land Acts of the said Settlement or Will, or there are no trustees for the purposes of the Settled Land Acts,

or We are trustees for Sale of the said Estate and lands under Settlement dated

or We are trustees with a power of Sale of the said Estate and lands under Settlement dated

or As the case may be.

9. I have set forth to the best of my knowledge and belief in the Third Schedule hereto the names and addresses of all persons interested in the Estate and lands, and short particulars of the nature of their interest or claim.

See Form C.

10. The particulars set forth in the accompanying Schedule of Tenancies now produced to me and marked before swearing this Affidavit are true and correct in every particular to the best of my knowledge, information, and belief.

The Vendor should state here the facts as to Game rights, and how he proposes to deal with same, and the facts as to the mineral and water rights and ancient monuments.

11.

12. There are not any proceedings pending in any Court in relation to the said lands or any part thereof save

13. I propose that such sum as the Commissioners shall sanction shall be paid out of the Purchase Money under the provisions of Section 23 (12) of the said Act to such person as I shall employ to negotiate the proposed sale.

SCHEDULE I.

(1)	(2)	(3)	(4)	(5)
Denominations (Ordnance Survey Names), Barony and County.	Total Quantity of land, Statute Measure proposed to be sold in each Denomination.	Tenement Valuation of land proposed to be sold in each Denomination.	Reference on Map Lodged.	Tenure by which the lands are held and particulars of superior interests, and the names and addresses of the persons entitled thereto so far as known to the Vendor.

Note.—Divide this Schedule into parts specifying:—(*a*) Tenanted lands. (*b*) Lands proposed to be dealt with as parcels under Section 2 of the Act. (*c*) Demesne lands. (*d*) Other lands in the occupation of the Vendor which he requests the Land Commission to purchase.

SCHEDULE II.

Deeds or other Documents relied on as *primâ facie* Evidence of Title.

DIRECTIONS.

If an abstract of title has been prepared it may be utilised. If not, the Vendor should specify a Conveyance to him or his predecessor in title, and also the last Settlement, Will, or other document showing extent and nature of his interest; and if the Estate and lands, or any portions thereof, are held under fee-farm grant or lease, the Vendor should specify same. The Vendor should also give evidence to establish the identity of the lands for sale with those mentioned in the title deeds.

If originals are not in the possession of the Vendor he should state in whose custody they are. Note Rule 15 as to obtaining an order for the production or lodgment of the originals.

SCHEDULE III.

Names, &c., of Persons interested in the Estate and Lands other than Owners of Superior Interests mentioned in Schedule I.

Name.	Address.	Short particulars of Interest or Claim.
	PART I. Persons interested in remainder or as *cestui que trust*, &c. PART II. Incumbrancers, &c.	

SCHEDULE IV.

Particulars of the Demesne or other lands in Occupation of the Vendor which he is desirous of repurchasing from the Land Commission.

Denominations (Ordnance Survey Names), Barony and County.	Quantity of Land, Statute Measure.	Tenement Valuation, Houses and Land separately.	Reference Numbers on Map.
	A. R. P.	£ *s.* *d.*	

Sworn before me this
day of 19
at
in the County of
and I know the Deponent,

[Form "B."

IRISH LAND COMMISSION.

ESTATES COMMISSIONERS.

ORIGINATING REQUEST.

Estate of *A.B.* in the County of

Omit any portions of this form which are not applicable to the facts of the case.

I, *A.B.*, of hereby make oath and say as follows:—

1. I am within the meaning of the 17th Section of the Irish Land Act, 1903, a person having power to sell the Estate and lands, particulars of which are set forth in the First Schedule hereunto annexed, which Estate and lands are described in the Map lodged herewith.

2. For not less than six years immediately preceding this Request I *

* Or, I and my immediate predecessor in title *C.D.* of

have been personally, or by an Agent, in receipt of the rents and profits of the said Estate and lands.

If this is not the case the Vendor must state clearly to whom the rents and profits have been paid during the period in question.

3. I am the Owner of other lands in the neighbourhood of the said Estate which I do not propose to sell to the Land Commission; such other lands are marked in the outline upon the said Map (or on an accompanying Map as the case may be).

4. I apply to the Land Commission to inquire into the circumstances of the said Estate with a view to the Sale thereof under the said Act, and I apply that the same may be declared fit to be regarded as a separate Estate for the purposes of such Sale.

5. In the Fourth Schedule hereunto annexed I have set forth particulars of so much of the Demesne lands and other lands in my occupation as I am desirous of repurchasing from the Land Commission, with the Acreage and Tenement Valuation of same.

6. As *primâ facie* evidence of my power to sell the said Estate and lands, I refer to the deeds and other documents specified in the Second Schedule hereunto annexed.

7. The said Estate and lands are held by the tenure mentioned in the said First Schedule and are subject to the superior interests therein referred to.

8. I am the absolute Owner of the said Estate and lands,

or I am the Owner as Tenant for life of the said Estate and lands under a Settlement or Will dated and

C.D. of and *E.F.* of are trustees for the purposes of the Settled Land Acts of the said Settlement or Will, or there are no trustees for the purposes of the Settled Land Acts,

or We are trustees for Sale of the said Estate and lands under Settlement dated

or We are trustees with a power of Sale of the said Estate and lands under Settlement dated

or As the case may be.

9. I have set forth to the best of my knowledge and belief in the Third Schedule hereto the names and addresses of all persons interested in the said Estate and lands, and short particulars of the nature of their interest or claims.

See Form C.

10. The particulars set forth in the accompanying Schedule of Tenancies now produced to me and marked before swearing this Affidavit are true and correct in every particular to the best of my knowledge, information, and belief.

The Vendor should state here the facts as to Game rights, and how he proposes to deal with same, and the facts as to the mineral and water rights and ancient monuments.

11.

12. There are not any proceedings pending in any Court in relation to the said lands or any part thereof save

13. Subject to the approval of the Estates Commissioners, I desire to nominate Mr. of to negotiate the sales.

SCHEDULE I.

(1) Denominations (Ordnance Survey Names), Barony and County.	(2) Total Quantity of land, Statute Measure, proposed to be sold in each Denomination.	(3) Tenement Valuation of land proposed to be sold in each Denomination.	(4) Reference on Map lodged.	(5) Tenure by which the Estate and lands are held and particulars of superior interests, and names and addresses of the persons entitled thereto so far as known to the Vendor.

Note.—Divide this Schedule into parts specifying:—(*a*) Tenanted lands. (*b*) Lands proposed to be dealt with as parcels under Section 2 of the Act, (*c*) Demesne lands, and (*d*) other lands in the occupation of the Vendor.

SCHEDULE II.

Deeds or other Documents relied on as *primâ facie* Evidence of Title.

DIRECTIONS.

If an abstract of title has been prepared it may be utilised. If not, the Vendor should specify a Conveyance to him or his predecessor in title, and also the last Settlement, Will, or other document showing extent and nature of the Vendor's interest; and if the Estate and lands, or any portions thereof, are held under fee-farm grant or lease the Vendor should specify same. The Vendor should also give evidence to establish the identity of the lands for sale with those mentioned in the title deeds.

If originals are not in the possession of the Vendor he should state in whose custody they are. Note rule 15 as to obtaining an order for the production or lodgment of the originals.

SCHEDULE III.

Names, &c., of Persons interested in the Estate and Lands other than Owners of Superior Interests mentioned in Schedule I.

Name.	Address.	Short particulars of Interest or Claim.
	PART I. Persons interested in Remainder or as *cestui que trust*, &c. PART II. Incumbrancers, &c.	

SCHEDULE IV.

Particulars of the Demesne and other Lands in Occupation of the Vendor which he is desirous of Repurchasing from the Land Commission.

Denominations (Ordnance Survey Names), Barony and County.	Quantity of Land, Statute Measure.	Tenement Valuation, Houses and Lands separately.	Reference Number on Map.
	A. R. P.	£ s. d.	

Sworn before me this
day of 19
at
in the County of
and I know the Deponent.

[Form "C."

IRISH LAND COMMISSION.

ESTATES COMMISSIONERS.

Schedule of Tenancies referred to in Originating Application or Originating Request.

Estate of County

(1) Reference Number on Map.	(2) Denomination (Ordnance Survey Names), Barony and County.	(3) Names of Tenants.	(4) Acreage.	(5) Rent.	(6) If Judicial give date of Order or Agreement and Record Number. If not Judicial, state shortly particulars of Contract of Tenancy.	(7) Arrears of Rent due up to Gale Day before the date of application or request.	(8) Gale Day.	(9) If Tenancy has been created since 1st Jan. 1901, state so.
			A. R. P.	£ s. d.				

[Form "D."

IRISH LAND COMMISSION.

ESTATES COMMISSIONERS.

SCHEDULE OF AREAS.

Estate of County

Reference Numbers on Map.	Tenants' Names.	Area. Statute Measure.	Tenure and other remarks.
	Townland of	A. R. P.	

[Form "E."

IRISH LAND COMMISSION.

ESTATES COMMISSIONERS.

Estate of *A.B.*

* Absolute owner, tenant for life, or as the case may be.

TAKE NOTICE that the said *A.B.*, claiming as* is proceeding to sell his Estate at and his untenanted lands at to the Irish Land Commission or to the

Here insert any exception or reservation subject to which the Estate may be vested.

Tenants thereof and other persons in fee simple

and that the Land Commission intend without any further investigation of title within from this date, unless some valid reason is shown in the meantime why they should not do so, to deal with the said *A.B.* as the owner of the said lands for all purposes other than the distribution of the Purchase Money or the payment of any percentage out of the Land Purchase Aid Fund established under the Irish Land Act, 1903.

Signed,

Dated this day of 19 .

[Form " F."

AGREEMENT between Vendor and a Tenant for Sale of a Holding.

IRISH LAND COMMISSION.

ESTATES COMMISSIONERS.

AN AGREEMENT made the day of 19
Between of , the Vendor of the holding described in the First Schedule hereto, and
of , the Tenant in occupation of the said holding.

1. In case an Estate of which the said holding forms a part shall be sold under the provisions of the Irish Land Act, 1903, the Vendor hereby agrees to sell and the Tenant hereby agrees to purchase the said holding for the sum of £ .

2. The said holding is now held by the said Tenant at the annual rent of £ payable under*

* State shortly particulars of the contract of tenancy, and if Judicial give date of Order or Agreement and Record Number. If not Judicial, state when the Tenancy commenced, and give date of the Grant, Lease or Agreement (if any).

3. The Tenant hereby applies to the Irish Land Commission for an advance of the sum of £ for the purpose of such purchase to be repaid by an annuity of £ payable as by the Irish Land Act, 1903, provided.

The balance of the Purchase Money (if any over the amount of the advance under the Land Purchase Acts) is to be paid as follows:—

Strike out if the whole Purchase Money is applied for.

4. It is hereby agreed that the Irish Land Commission may, if they consider it equitable, treat the said holding as a holding subject to a Judicial Rent fixed since the passing of the Land Law (Ireland) Act, 1896.

Strike out if not applicable.

5. The said holding shall be vested in the Tenant in fee simple subject as hereinafter mentioned and as provided by the Irish Land Act, 1903.

Or if not to be vested in the Land Commission state how it is proposed to deal with same.

6. The exclusive right of mining and taking minerals within the meaning of the said Act, and of digging and searching for the same is hereby reserved to and shall be vested in the Land Commission.

If there are other Sporting rights state how it is proposed to deal with same.

7. The Sporting rights within the meaning of the Irish Land Act, 1903, to which the Vendor is entitled over and upon the said holding exclusive of the Tenant shall be :—

(*a*) Reserved to the Vendor.

or (*b*) Vested in the Tenant.

or (*c*) In the absence of agreement vested in the Irish Land Commission.

8. Interest on the Purchase Money shall be payable to the Irish Land Commission at the rate of per cent. per annum from the date of this Agreement up to the date of the advance and after that date until the day from which the purchase annuity begins at such rate as the Treasury may prescribe.

9. The sale shall be carried out by means of a Vesting Order.

FIRST SCHEDULE.

County Barony Electoral Division

Reference Number on Map.	Ordnance Survey Name of Townlands (each on a separate line).	Area in Statute Measure of the portion of the holding in each Townland.	Tenement Valuation.
		A. R. P.	£ s. d.

Signed by the Vendor in the presence of	Signature of the Vendor,.....
Name,	Postal Address,
Address,	
Occupation,	
Signed by the Tenant in the presence of	Signature of Tenant,
(the Agreement having first been read and explained to him in my presence)	Postal Address,
Name,	
Address,	Occupation or Description,
Occupation,	

The words in italics may be struck out unless the Tenant is illiterate.

I, the before mentioned Tenant say :—

The particulars in the foregoing Agreement and Schedule are true to the best of my knowledge and belief.

There is not any person in occupation of said holding as Tenant or otherwise save as mentioned in the following Schedule :—

SECOND SCHEDULE.

Names of the persons in occupation as Under-Tenants or otherwise.	Area in Statute Measure of portion sub-let.	Rent (if any) payable by such occupiers.	Tenure or nature of occupancy.
	A. R. P.	£ *s.* *d.*	

I have not obtained from or (except by this Agreement) applied to the Irish Land Commission for an advance of any sum for the purchase of any land save as follows :—

nor is there any advance under the Land Purchase Acts now repayable by me save as follows:—

Signature of Tenant

Signed by the Tenant in the presence of

(the Agreement having first been read and explained to him in my presence)

The words in italics may be struck out unless the Tenant is illiterate.

Name

If the Tenant wishes to be represented in the proceedings by a Solicitor, he must be so represented at his own expense; if so, here insert the name and address of such Solicitor:—

Name

Address

DIRECTIONS AS TO THE PREPARATION OF THE AGREEMENT.

The Agreement shall be neatly and accurately prepared without any blanks, and all clauses not applicable to the case must be struck out, otherwise it cannot be received.

When females are parties to the Agreement they should be described either as "Spinster," "Widow," or "Wife of ."

The Purchase Money and the Advance must be in pounds only.

The holding must be vested in fee simple subject to the provisions of the Irish Land Act, 1903; and in dealing with sporting rights, mineral rights, and water rights regard must be had to the provisions of Sections 13, 16, and 99 of the said Act.

The Agreement must be signed by both Vendor and Tenant or by some Person acting under Power of Attorney. An Attorney should sign thus: "*A.B.* by *C.D.*, acting under Power of Attorney." Trustees or limited owners selling under the provisions of the Settled Land Acts, 1882 to 1896, must, unless under special circumstances, themselves sign the Agreement.

The witness to the signature of the Tenant should be a Commissioner for taking Affidavits, Magistrate, Clergyman, Doctor, Solicitor, County, Rural or District Councillor, but in no case may the witness be in the employment of the Vendor, and the witness shall certify that he knows the Tenant or Purchaser.

N.B.—No Stamp Duty is payable on the Agreement.

[Form "G."

JOINT AGREEMENT between Vendor and several Tenants for the Sale of their Holdings.

IRISH LAND COMMISSION.

ESTATES COMMISSIONERS.

AN AGREEMENT made the day of 19
Between *A.B.*, of in the County of
the Vendor of the above-named Estate and the several Tenants of the said Estate whose names are subscribed hereto and who are severally in exclusive occupation of the holdings described opposite the name of each such Tenant in the Schedule hereunto annexed.

1. In case an Estate of which the said holdings form a part shall be sold under the provisions of the Irish Land Act, 1903, the Vendor hereby agrees to sell and each of the said Tenants hereby agrees to purchase the holding described in the said Schedule opposite the name of each such Tenant respectively for the respective sums specified in the said Schedule being the whole Purchase Money of each holding respectively.

2. The particulars mentioned in the Schedule shall be taken and deemed to be incorporated in this Agreement.

3. Each of the said Tenants hereby applies to the Irish Land Commission for an advance of the whole of the said Purchase Money for the purpose of said purchase such advances to be respectively repaid by the annuities mentioned in the said Schedule payable as by the Irish Land Act, 1903, provided.

4. The said holdings shall be respectively vested in the said Tenants in fee simple, subject as hereinafter mentioned and as provided by the Irish Land Act, 1903.

5. The exclusive right of mining and taking minerals within the meaning of the said Act and of digging and searching for the same is hereby reserved to and shall be vested in the Land Commission.

Or if not to be vested in the Land Commission state how it is proposed to deal with same.

If there are other Sporting rights state how it is proposed to deal with same.

6. The Sporting rights within the meaning of the Irish Land Act, 1903, to which the Vendor is entitled over and upon the said holdings exclusive of the Tenants shall be :—

(*a*) Reserved to the Vendor.

or (*b*) Vested in the Tenant.

or (*c*) In the absence of agreement vested in the Irish Land Commission.

7. Interest on the respective Purchase Monies shall be payable to the Irish Land Commission at the rate of £ per cent. per annum from the date of this Agreement up to the dates of the respective advances and after such dates respectively until the dates from which the purchase annuities respectively begin at such rate as the Treasury may prescribe.

8. The Sale shall be carried out by means of a Vesting Order or Vesting Orders.

SCHEDULE WITHIN REFERRED TO.

County, Barony, Electoral Division, Townland,

(1)	(2)	(3)	(4)	5	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)
Reference No. on Map.	Ordnance Survey Name of Townland.	Name of Tenant.	Address with name of Post Office to which letters are to be sent to him.	Area of Holding, Statute Measure.	Rent of Holding.	If Judicial Record No. as stated in Order or Agreement fixing rent and date of same. If not Judicial, state shortly particulars of contract of tenancy.	Tenement Valuation.	Purchase Money and Advance applied for.	Annuity at 3¼ per cent. on Advance.	Amount and Particulars of any Advance made to or applied for by the Tenant for the purchase of land from the Irish Land Commission other than under this Agreement, or of any advance now repayable by such Tenant.	Signature of Tenant.	Signature and description of person witnessing signature of Tenant, stating where necessary that the agreement of any marksman has first been read and explained to him in presence of the witness.
				A. R. P.	£ s. d.		£ s. d.					

Signature of Vendor

Signed by the Vendor in the presence of

Name

Address

Occupation

If the Tenants wish to be represented in the proceedings by a Solicitor, they must be so represented at their own expense; if so, here insert the name and address of such Solicitor:—

Name

Address

DIRECTIONS AS TO THE PREPARATION OF THE AGREEMENT.

This Agreement is only to be used in cases where there are no special incidents affecting the holdings or tenancies and where each Tenant applies for an advance of the whole Purchase Money. It must be confined to Tenants on one Townland, and in no case should include more than 25.

It should be neatly and accurately prepared without any blanks, and all clauses not applicable to the case must be struck out, otherwise it cannot be received.

When females are parties to the Agreement they should be described either as "Spinster," "Widow," or "Wife of ."

The Purchase Money and the Advance must be in pounds only.

The holding must be vested in fee simple subject to the provisions of the Irish Land Act, 1903; and in dealing with sporting rights, mineral rights, and water rights regard must be had to the provisions of Sections 13, 16, and 99 of the said Act.

The Agreement must be signed by both Vendor and each Tenant, or by some person acting under Power of Attorney. An Attorney should sign thus: "*A.B.* by *C.D.*, acting under Power of Attorney." Trustees or limited owners selling under the provisions of the Settled Land Acts, 1882 to 1896, must, unless under special circumstances, themselves sign the Agreement.

The witness to the signature of each Tenant should be a Commissioner for taking Affidavits, Magistrate, Clergyman, Doctor, Solicitor, County, Rural or District Councillor, but in no case may the witness be a person in the employment of the Vendor, and he shall certify that he knows the Tenant or Purchaser.

N.B.—No Stamp Duty is payable on the Agreement.

[Form "H."

AGREEMENT between Vendor and Purchaser for Sale of a Parcel of an Estate.

IRISH LAND COMMISSION.

ESTATES COMMISSIONERS.

AN AGREEMENT made the day of 19

Between of the Vendor

of the parcel of land described in the Schedule hereto and

of the Purchaser

of the said parcel of land.

1. In case an Estate of which the said parcel of land forms a part shall be sold under the provisions of the Irish Land Act, 1903, the Vendor hereby agrees to sell and the Purchaser hereby agrees to purchase the said parcel of land heretofore in the occupation of the Vendor for the sum of £ .

2. The Purchaser hereby applies to the Irish Land Commission for an advance of the sum of £ for the purpose of carrying out such purchase, to be repaid by an annuity of £ payable as by the Irish Land Act, 1903, provided.

The balance of the Purchase Money (if any over the amount of the advance under the Land Purchase Acts) is to be paid as follows:—

Strike out if the whole Purchase is applied for.

3. The said parcel of land shall be vested in the Purchaser in fee simple, subject as hereinafter mentioned and as provided by the Irish Land Act, 1903.

4. The exclusive right of mining and taking minerals within the meaning of the said Act, and of digging and searching for the same is hereby reserved to and shall be vested in the Land Commission.

Or if not vested in the Land Commission state how it is proposed to deal with same.

If there are other Sporting rights state how it is proposed to deal with same.

5. The Sporting rights within the meaning of the Irish Land Act, 1903, to which the Vendor is entitled over and upon the said parcel of land shall be :—

(*a*) Reserved to the Vendor.

or (*b*) Vested in the Purchaser.

or (*c*) In the absence of agreement vested in the Irish Land Commission.

6. Interest on the Purchase Money shall be payable to the Irish Land Commission from the date of the advance until the day from which the purchase annuity begins at such rate as the Treasury may prescribe.

7. The Purchaser is to be put into possession on a day not later than the date of the advance.

SCHEDULE.

County, Barony, Electoral Division,

Reference Number on Map.	Ordnance Survey Names of Townlands (each on a separate line).	Area in Statute Measure of the portion of the parcel of land in each Townland.	Tenement Valuation.
		A. R. P.	£ s. d.

Signed by the Vendor in the presence of

Name,

Address,

Occupation,

Signature of Vendor,

Postal Address,

Signed by the Purchaser in presence of

(*the Agreement having first been read and explained to him in my presence*)

Name,

Address,

Occupation,

Signature of Purchaser,

Postal Address,

Occupation or Description,

The words in italics may be struck out unless the Purchaser is illiterate.

I, *A.B.*, the above-named Purchaser, say as follows :—

1. The particulars stated in the foregoing Agreement and Schedule are true to the best of my knowledge and belief.

2. I am a

Here insert words bringing Purchaser within one of the clauses (*a*), (*b*), (*c*), or (*d*) mentioned in Sect. 2, ss. (1).

3. I have not obtained from or, except by this Agreement, applied to the Irish Land Commission for an advance of any sum for the purchase of any land, nor is there any advance under the Land Purchase Act now repayable by me *save as follows* :—

Signature of Purchaser,

If the Purchaser wishes to be represented in the proceedings by a Solicitor, he must be so represented at his own expense, and if so, here insert the name and address of such Solicitor.

Name,

Address,

DIRECTIONS AS TO THE PREPARATION OF THE AGREEMENT.

The Agreement should be neatly and accurately prepared without any blanks, and all clauses not applicable to the case must be struck out, otherwise it cannot be received.

When females are parties to the Agreement they should be described either as "Spinster," "Widow," or "Wife of ."

The Purchase Money and the Advance must be in pounds only.

The parcel of land must be vested in fee simple, subject to the provisions of the Irish Land Act, 1903; and in dealing with sporting rights, mineral rights, and water rights regard must be had to the provisions of Sections 13, 16, and 99 of the said Act.

The Agreement must be signed by both Vendor and Purchaser, or by some person acting under Power of Attorney. An Attorney should sign thus: "*A.B.* by *C.D.*, acting under Power of Attorney." Trustees or limited owners selling under the provisions of the Settled Land Acts, 1882 to 1896, must, unless under special circumstances, themselves sign the Agreement.

The witness to the signature of the Purchaser should be a Commissioner for taking Affidavits, Magistrate, Clergyman, Doctor, Solicitor, County, Rural or District Councillor, but in no case may the witness be a person in the employment of the Vendor, and the witness shall certify that he knows the Tenant or Purchaser.

N.B.—No Stamp Duty is payable on the Agreement.

[Form "I."

AGREEMENT for sale by Vendor to Trustees for the purpose mentioned in Section 4 of the Irish Land Act, 1903.

IRISH LAND COMMISSION.

ESTATES COMMISSIONERS.

AN AGREEMENT made the day of 19 Between of the Vendor of the parcel of land described in the Schedule hereto and *A.B.*, of and *C.D.*, of being Trustees approved of by the Irish Land Commission for the purpose hereinafter mentioned.

1. In case an Estate of which the said parcel of land forms a part shall be sold under the provisions of the Irish Land Act, 1903, the Vendor hereby agrees to sell and the Purchasers hereby agree to purchase the said parcel of land heretofore in the occupation of for the sum of £ .

2. The Purchasers hereby apply to the Irish Land Commission for an advance of the sum of £ for the purpose of carrying out such purchase to be repaid by an annuity of £ payable as by the Irish Land Act, 1903, provided.

Strike out if the whole Purchase Money is applied for.

The balance of the Purchase Money (if any over the amount of the advance under the Land Purchase Acts) is to be paid as follows:—

3. The said parcel of land shall be vested in the Purchasers in fee simple, subject as hereinafter mentioned and as provided by the Irish Land Act, 1903.

Or if not vested in the Land Commission state how it is proposed to deal with same.

4. The exclusive right of mining and taking minerals within the meaning of the said Act, and of digging and searching for the same is hereby reserved to and shall be vested in the Land Commission.

If there are other Sporting rights state how it is proposed to deal with same.

5. The Sporting rights within the meaning of the Irish Land Act, 1903, to which the Vendor is entitled over and upon the said parcel of land shall be:—

(*a*) Reserved in the Vendor.

or (*b*) Vested in the Purchasers.

or (*c*) In the absence of agreement vested in the Irish Land Commission.

6. Interest on the Purchase Money shall be payable to the Irish Land Commission from the date of the advance until the day from which the purchase annuity begins at such rate as the Treasury may prescribe.

7. The purchasers are to be put into possession on a day not later than the date of the advance.

8. It is hereby agreed that the said *A.B.* and *C.D.* shall hold the said parcel of land for the purpose of

See Section 4; specify the purpose.

and on the terms and conditions and with such rights and powers as may be specified in a scheme to be settled, pursuant to the provisions of Section 20 of the Irish Land Act, 1903.

SCHEDULE.

County, Barony, Electoral Division,

Reference Number on Map.	Ordnance Survey Names of Townlands (each on a separate line).	Area in Statute Measure of the portion of the parcel of land in each Townland.	Tenement Valuation.
		A. R. P.	£ s. d.

Signed by the Vendor in the presence of

Name,

Address,

Occupation,

Signature of Vendor,

Postal Address,

Signed by the Purchasers in presence of

(The Agreement having first been read and explained in my presence)

Name,

Address,

Occupation,

Signature of Purchasers,

Postal Address,

Occupation or Description,

If the Purchasers wish to be represented in the proceedings by a Solicitor, they must be so represented at their own expense, and if so, here insert the name and address of such Solicitor.

Name

Address

DIRECTIONS AS TO THE PREPARATION OF THE AGREEMENT.

The Agreement must be neatly and accurately prepared without any blanks, and all clauses not applicable to the case must be struck out, otherwise it cannot be received.

When females are parties to the Agreement they should be described either as "Spinster," "Widow," or "Wife of ."

The Purchase Money and the advance must be in pounds only.

The parcel of land must be vested in fee simple, subject to the provisions of the Irish Land Act, 1903; and in dealing with sporting rights, mineral rights, and water rights, regard must be had to the provisions of Sections 13, 16, and 99 of the said Act.

The Agreement must be signed by both Vendor and Purchasers, or by some person acting under Power of Attorney. An Attorney should sign thus: "*A.B.* by *C.D.* acting under Power of Attorney." Trustees or limited owners selling under the provisions of the Settled Land Acts, 1882 to 1896, must, unless under special circumstances, themselves sign the Agreement.

The witness to the signature of the Purchasers should be a Commissioner for taking Affidavits, Magistrate, Clergyman, Doctor, Solicitor, County, Rural or District Councillor, but in no case may the witness be a person in the employment of the Vendor, and the witness shall certify that he knows the Purchasers.

N.B.—No Stamp Duty is payable on the Agreement.

[Form " K."

IRISH LAND COMMISSION.

ESTATES COMMISSIONERS.

Estate of *A.B.*

WHEREAS, on the Sale of the above Estate, it is proposed that advances shall be made by the Irish Land Commission to the Tenants named in the following Schedule.

AND WHEREAS such proposed advances do not comply with the provisions of Section I., Sub-section (1), of the Irish Land Act, 1903.

NOTICE IS HEREBY GIVEN that on the day of at o'clock the Estates Commissioners will at consider such proposed advances and will hear any application that may be made by or on behalf of any persons interested in the said Estate with reference to the same and will then determine whether they are satisfied with the security and whether the proposed prices are equitable having regard to the interests of all such persons as aforesaid.

SCHEDULE.

Townland, Barony, County.	Tenant.	Judicial Rent.	Date when fixed.	Purchase Money and Advance.

Signed,

Dated this day of 19 .

[Form "L."

IRISH LAND COMMISSION.

ESTATES COMMISSIONERS.

Estate of Owner.

Petitioner.

SCHEDULE OF TENANCIES.

(1) Reference Number on Map.	(2) Denominations (Ordnance Survey Names), Barony and County.	(3) Names of Tenants, including Court Tenants and Tenants holding under temporary agreements.	(4) Acreage.	(5) Rent.	(6) If Judicial give date of Order or Agreement and Record Number. If not Judicial, state shortly particulars of Contract of Tenancy.	(7) Arrears of rent due up to last Gale Day.	(8) Gale Days.	(9) State whether any Tenancy was created since 1st January 1901, and whether any Tenant holds under a letting made by a Court or Judge.
			A. R. P.	£ s. d.		£ s. d.		

[Form "M."

IRISH LAND COMMISSION.

ESTATES COMMISSIONERS.

Estate of *A.B.*

TAKE NOTICE, that unless cause is shown to the contrary within two months from this date the Land Commission intend to make an Order vesting the Estate, Demesne, and lands referred to in the first part of the Schedule hereunto annexed, in the Land Commission. The said order will have the effect of vesting the said Estate, Demesne, and lands in the Land Commission in fee simple subject as follows :—

If there is no demesne there need only be one part to this Schedule.

(*a*) To any public right affecting the lands.

(*b*) *To the Sporting rights reserved by the Vendor.

* Omit, if not the case.

(*c*) To any maintenance charge under the Public Works Acts.

(*d*) To any interests of the Tenants on the lands or of persons having claims upon those interests and to any easements, rights and appurtenances mentioned in Section 34 of the Land Law (Ireland) Act, 1896.

and also subject

but save as aforesaid discharged from the claims of all persons interested in the lands, which claims shall from the date of such vesting order cease as against the lands, and attach to the Purchase Money thereof in like manner as immediately before the date of the order they attached to the lands.

AND TAKE NOTICE that on the Sale of the said Estate the Land Commission proposed to resell to the said *A.B.* the Demesne and lands mentioned in the second part of the said Schedule, and that he agreed to / refused to repurchase the same.

SCHEDULE.

Part 1.

The Estate, Demesne and other lands Purchased by the Land Commission.

Townland, Barony, County.	Area.

Part 2.

Demesne and other lands offered to the Vendor.

Townland, Barony, County.	Area.

Signed,

Dated this day of 19 .

[Form "N."

IRISH LAND COMMISSION.

ESTATES COMMISSIONERS.

Estate of the Irish Land Commission formerly the Estate of *A.B.*

The Irish Land Commission having offered to sell to you the holding described in the Schedule hereto for the sum of £ hereby offer to make an advance of the said sum of £ to you for the purpose of such purchase; such sum to be repaid by an annuity of payable as is by the Irish Land Act, 1903, provided.

This offer, if accepted, should be returned by you to the Irish Land Commission within days after the date upon which it shall be communicated to you by them, and if not so returned the Estates Commissioners may order that you be deemed to have accepted such offer.

SCHEDULE.

County, Barony, Electoral Division,

Reference to Map.	Ordnance Survey Names of Townlands (each on a separate line).	Area in Statute Measure of the portion of each Townland to be sold.	Rent payable by Tenant.	Tenure of Tenant.
		A. R. P.	£ s. d.	

To Mr.

I ACCEPT THE FOREGOING OFFER.

Signed by the Tenant in the presence of
(the foregoing having first been read and explained to him in my presence)
Name,
Address,
Qualification,

Dated this day of 190 .

Signature of Tenant,
Postal Address,
Occupation or Description,

The words in italics may be struck out unless the Tenant is illiterate.

A female should be described either as "Spinster," "Widow," or "Wife of " as the case may be.

[Form "O."

IRISH LAND COMMISSION.

ESTATES COMMISSIONERS.

WE the several parties whose signatures are hereto annexed, being Proprietors of holdings purchased under the Land Purchase Acts, and parties interested in the determination of the questions hereinafter mentioned, apply to and request the Land Commission to determine the questions which have arisen between us respecting

Sect. 22.

Here state clearly the exact question or questions which the Land Commission are requested to determine under the head of either (*a*) boundaries, (*b*) easements, (*c*) appurtenances.

and we hereby severally agree to be bound by the decision of the Land Commission on the said questions.

Townland.	Barony.	County.	Collection Number, Fair Rent Record No. as the case may be, or other particulars necessary for identification.	Signature and Address of Applicant.

Witness to Signatures,

Dated this day of 19 .

LAND COMMISSION. PROVISIONAL RULES.

4th Day of December 1903.

IT is this day ordered that the following General Rules and Orders shall, until further order, take effect and be in force in the Irish Land Commission in relation to proceedings under and in pursuance of the Land Purchase Acts.

Order I.

Construction of Terms, and Saving Clause.

1. In these Rules, unless the context otherwise requires, "the Rules of 1897" shall mean the Rules under the Land Purchase Acts dated the 16th day of March 1897; and "the Act of 1903" shall mean the Irish Land Act, 1903.*

2. The existing Rules made by the Land Commission under the Land Purchase Acts shall continue in force, save so far as the same are hereby rescinded or may be inconsistent with these Rules: provided that nothing in the said existing Rules, or in these Rules, shall be read or construed as varying any Rules made by the Judicial Commissioner and the Estates Commissioners under Sub-section 13 of Section 23 of the Act of 1903 in relation to proceedings under Sections 1 to 23 of that Act.†

Order II.

Notices and Requisitions to the Quit Rent Office, Board of Public Works and Board of Trade.

1. Order V. of the Rules of 1897 is hereby rescinded.‡

Transmission of notices.

2. Notices and requisitions to the Quit Rent Office and Commissioners of Public Works in Ireland in respect of any land being sold under the Land Purchase Acts, and notice to the Board of Trade where the Land Commission shall so direct, shall be prepared and transmitted by the proper officer.§

* See Rules of 16th March 1897, *ante* p. 369.
† See Rules of 23rd October 1903, *ante* p. 481.
‡ See Order V., *ante* p. 373.
§ See Sect. 24 (9), Act 1903, *ante* p. 81.

3. It shall be the duty of the vendor or his solicitor to furnish to the Quit Rent Office and Board of Public Works respectively such documents and other evidence as may be necessary to enable them to comply with the requisitions.

Vendor or his solicitor to furnish documents and evidence.

Order III.

*Lis Pendens.**

1. In the case of the sale of an Estate under Part I. of the Act of 1903, as soon as a certificate has been given by the Estates Commissioners that they think fit to deal with the vendor as the owner of the land being sold, the vendor or his solicitor shall register the matter as a *lis pendens*, and the proper officer shall for such purpose prepare and sign a certificate of the lodgment of the originating application or request as the case may be.

Order IV.

Abstract of Title.

1. In the preparation of Abstracts of Title regard shall be had to such directions as may be issued by the Land Commission from time to time.†

2. If the title to the lands is comprised in a single instrument other than a will, such instrument may be lodged in lieu of an Abstract of Title, if accompanied by an affidavit by the vendor or his solicitor to the effect that such instrument constitutes the title to the lands, and that, to the best of the deponent's knowledge, information and belief, such title has not since the date of such instrument been affected by any other instrument, or by the process of any Court, or the happening of any event, or otherwise.

A single instrument may be substituted in certain cases.

3. In the case of the sale of an estate to the Land Commission under Part I. of the Act of 1903, or of Land to the Congested Districts Board under Section 79 of the same Act, the abstract of title, or instrument in lieu thereof, shall be lodged within one month from the date of the order vesting such estate or land in the Land Commission or the Trustees of the Congested Districts Board as

When to be lodged in the case of the sale of an Estate.

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* The matter may now be registered as a *lis pendens* as soon as the originating application has been lodged.

† See Directions of 4th December 1903, *post* p. 550.

the case may be; and, in the case of the sale of an estate to persons other than the Land Commission, it shall be lodged within one month from the date of the certificate of the Estates Commissioners that they think fit to deal with the vendor as the owner of the land being sold. Together with every such abstract or instrument there shall be lodged a certificate of the registration of the matter as a *lis pendens*, and a draft Allocation Schedule showing the manner in which it is proposed that the purchase money shall be distributed, and stating the particulars of any claims under Sub-section 8 of Section 24, and Section 48 of the Act of 1903. Such Schedule may be in Form 25 in the appendix to the Rules of 1897.*

Order V.

Rulings on Title in the Case of Estates sold under Part I. of the Act of 1903, *or Land sold to the Congested Districts Board under Section* 79 *of the same Act.*

Searches.

1. In the case of the sale of an estate under Part I. of the Act of 1903, or of land to the Congested Districts Board under Section 79 of the same Act, the Solicitor to the Land Commission shall lodge the necessary requisitions for any searches directed by the Examiner, and cause the results to be furnished to the Examiner without delay.†

Title may be referred to Counsel.

2. With a view of expediting the ruling of titles to the purchase money of estates sold under Part I. of the Act of 1903, or to the Congested Districts Board under Section 79 of the same Act, a Judicial Commissioner may, where it is necessary having regard to the state of business, and within such limits as may be sanctioned by the Treasury, refer any such title to one of the examining Counsel to be nominated for the purpose, and such Counsel shall, subject to such limitations as such Judicial Commissioner may direct, have all the powers of an Examiner in relation to the matter so referred to him, and "Examiner" when used in these Rules shall include such examining Counsel.

Vendor or his Solicitor to attend Counsel.

3. The vendor or his solicitor shall attend such Counsel, and furnish him with such documents and information as he may require, and see that his requisitions on title are complied with.

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* See Sects. 24 (8), and Sect. 48, Act 1903, *ante* pp. 81 and 97.

Allocation Schedules must now be prepared in the same form as Final Schedules of Incumbrances. See Form A in Directions of 16th January 1901, *ante* p. 476.

† See Sect. 79, Act 1903, *ante* p. 151.

Order VI.

Vesting and Charging Orders.

1. Orders XVI., XVII., and XVIII., of the Rules of 1897, and the Rule dated the 29th day of April 1899, amending the last mentioned Order are hereby rescinded.*

2. An application to have a vesting order, or fiat in lieu thereof, corrected or rectified shall be by motion to a Judicial Commissioner; and a minute of the order for rectification when made shall be endorsed on the vesting order, or agreement for purchase, as the case may be, and signed by the Registrar. Rectification of vesting order.

3. The vesting order shall, when practicable, charge the holding with the repayment of the advance. If a separate charging order be necessary, it shall be signed by the Commissioner, and sealed with the seal of the Land Commission. Charging order.

Order VII.

Registration of Purchaser's Ownership.

1. Order XIX. of the Rules of 1897 and the Rules varying same dated 19th March 1900, are hereby rescinded.†

2. The particulars as to the holding or lands to be prepared and transmitted by the Land Commission to the Registrar of Titles, in order that the title of the purchaser to the ownership of the holding or lands may be registered pursuant to the Local Registration of Title (Ireland) Act, 1891, shall be as follows:— Particulars to be transmitted to Registrar of Titles.

(*a*) The record number (if any) and title of the matter or name of the estate in which the purchase was made, and, if the holding or lands be already registered land, the number of the folio of the Register of Titles upon which such holding or lands appear.

(*b*) The date of the vesting order or fiat as the case may be.

(*c*) The name, postal address, and occupation or other description of the purchaser.

(*d*) The townland or townlands with the area in statute measure of the portion of each comprised in the holding or land, and the county and barony, and, if necessary for the purpose of identification, the parish in which each townland is situated.

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* See pp. 384, 385, 386, and 470 *ante*. † See pp. 387 and 470 *ante*.

(*e*) The tenure of the purchaser at the date of the purchase as stated in the agreement for purchase or ascertained by the Land Commission, or the capacity in which the purchase was made by him.

(*f*) The particulars of the annuity payable in respect of the advance (if any) made by the Land Commission for the purchase of the holding, or land.

(*g*) The particulars of any other rent-charge reserved in the vesting order.

(*h*) The particulars of any exceptions, or reservations, or superior interests subject to which the vesting order or fiat is made, and of any provisions as to sporting rights therein contained.

(*j*) The particulars of any easement, right, or appurtenance which the vesting order may declare the sale to be subject to or freed from.

(*k*) Any other matter which the Land Commission may consider necessary for the purposes of registration.

The particulars to be in the form of a copy vesting order or a schedule.

3. Such particulars shall, where practicable, be transmitted to the Registrar of Titles in the form of a copy of the vesting order certified by the proper officer as "a true copy transmitted to the Registrar of Titles for the purpose of Registration." If there be no vesting order, or if the transmission of a copy of the vesting order be inconvenient, the particulars shall be embodied in a schedule, which shall be prepared and certified by the proper officer.

Copy vesting order or schedule to be accompanied by map.

4. The copy vesting order or schedule shall be accompanied by an Ordnance Sheet having the several holdings delineated thereon as they appear on the map used for the proceedings, unless there be a map endorsed upon, and referred to in the vesting order, in which case a copy of such map may be endorsed upon the schedule by the Ordnance Survey Department, or the vesting order may be produced to the Registrar of Titles for inspection.

Order VIII.

Superior Interests.

1. Rules 13, 14, and 15 of Order XX. of the Rules of 1897 are hereby rescinded.*

Quit or Crown rents.

2. No application for the apportionment of any quit rent, or other perpetual rent payable to the Crown, to which the provisions of Section 61 of the Act of 1903 apply, shall be made under

* See p. 390 *ante*.

Rule 3 of Order XX. of the Rules of 1897 without the leave of the Commissioner.*

Apportionment or exclusive charge of quit rent remitted to Judicial Commissioner to be listed on notice.

3. When any question relating to the apportionment or exclusive charge of any quit rent or other perpetual rent payable to the Crown is remitted by the Commissioners of Woods to a Judicial Commissioner for determination, the Registrar shall fix a day upon which the case shall be listed before a Judicial Commissioner for adjudication, and shall give not less than four clear days' notice thereof to all persons appearing to be interested.

Price to be fixed by Judicial Commissioner if not agreed to within a month.

4. The redemption price of a superior interest, other than quit or Crown rent, tithe rent-charge payable to the Land Commission or annuities in lieu thereof, and land improvement or drainage charges in favour of the Commissioners of Public Works in Ireland, shall be determined by the Judicial Commissioner, unless the parties interested agree upon such redemption price within one month from the date of the order for redemption. †

Distribution of purchase money without regard to superior interest not paid by land sold, and exclusive charge.

5. An application to have purchase or redemption money distributed without regard to a superior interest or any part thereof, or for an exclusive charge, in pursuance of Section 62 of the Act of 1903, shall be made by motion to the Commissioner, and, unless grounded upon a consent, shall be on notice to the owner or person in receipt of such superior interest, and to the owner or owners of the lands out of which the same is paid or upon which it is proposed to exclusively charge the same: provided always that the Commissioner may, if he think fit, dispense with service upon any person. A copy of the order, when made, shall, if applied for, be issued free of charge to the owners of the superior interest and the lands out of which the same is paid or upon which the same is exclusively charged. ‡

Undertaking to apply redemption price of superior interest as capital money.

6. When the redemption price of a superior interest, or of an apportioned part thereof, exceeds thirty pounds but does not exceed one hundred pounds, the undertaking to be given by the person in possession or in receipt of the income of the superior interest, or by the trustees to be appointed or approved by the Land Commission to apply such redemption price as if it were capital money arising under the Settled Land Acts, 1882 to 1890, shall be in writing under his or their hand or hands, in Form 1 in the Appendix, with such variations as the nature of the case may require. §

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* See Sect. 61, Act 1903, *ante* p. 129. See Rules of 16th March 1897, *ante* p. 388; and see Quit Rent Rules of 17th October 1903, *ante* p. 319.

† See Sect. 64, Act 1903, *ante* p. 138.

‡ See Sect. 62, Act 1903, *ante* p. 132.

§ See Sect. 63, Act 1903, *ante* p. 137; and see Form 1, *post* p. 537 As to showing title to superior interests, see Office Directions of February 1904, *post* p. 553.

Order IX.

Distribution of Purchase Money of Estates.

Order for payment into Bank of Ireland to be made by an Estates Commissioner.

1. In the case of the sale of an estate to persons other than the Land Commission the order to pay the purchase money into the Bank of Ireland and attaching claims thereto shall be made by an Estates Commissioner, and the making of such order shall forthwith be notified to the vendor, and, so far as may be practicable, to the other persons appearing to be interested in the purchase money, or their respective solicitors.*

To be invested in Consols unless otherwise directed.

2. Such purchase money shall, at the expiration of fourteen days from the date of the notification to the vendor of the payment into the Bank of Ireland, and in default of application to the contrary, be invested in the purchase of Government New 2½ per cent. Consolidated Stock unless a Judicial Commissioner shall otherwise direct.†

Distribution to be by a Judicial Commissioner.

3. The purchase money of estates sold under Part I. of the Act of 1903, or of land to the Congested District Board under Section 79 of the same Act, shall be distributed by a Judicial Commissioner, and all applications in relation to such monies, or the income arising therefrom, shall be made to him.‡

Summary application for distribution to be in pursuance of certificate of Examiner or by leave of Judicial Commissioner.

4. At any time after the abstract of title or instrument in lieu thereof has been lodged pursuant to Order IV. of these Rules, if the Examiner is of opinion that the case is a proper one for the distribution of the purchase money upon a summary application under the powers conferred by Section 24, Sub-section 11, of the Act of 1903, he shall settle, and, so far as may be necessary and practicable, vouch the allocation schedule, and he may either list the case before a Judicial Commissioner for allocation, or issue to the vendor or his solicitor a certificate to the effect that the case is a proper one for distribution upon such application as aforesaid, and he shall cause the issue of such certificate to be notified to the other persons (if any) appearing to be interested in the purchase money.

Provided that, in case the Examiner shall decline to issue such certificate, any person interested shall be at liberty to apply *ex parte* to a Judicial Commissioner for leave to make such summary application as aforesaid. §

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* See Sect. 24 (1), Act 1903, *ante* p. 79.

† Where part of the purchase money is paid in cash by the tenant the vendor's solicitor should see that it is invested.

‡ See Sect. 24 (6) and Sect. 79, Act 1903, *ante* pp. 80 and 151.

§ See Sect. 24 (11), Act 1903, *ante* p. 81.

5. If within four weeks from the date of such certificate the vendor or his solicitor does not apply to have the purchase money distributed, any person interested shall be at liberty to make the application, and if no application be made within six weeks from the date of such certificate, the Examiner shall cause the matter to be listed before a Judicial Commissioner to be dealt with by him.

Application to be made within limited time.

6. An application for the distribution of the purchase money under the powers conferred by Section 24, Sub-section 11, of the Act of 1903 shall, unless the case has been listed by the Examiner for allocation, be made by motion on notice not less than seven clear days after the service thereof on the parties affected thereby, and shall be grounded upon the Examiner's certificate (if any), and an affidavit made by the applicant, or by some other person who can swear positively to the facts, verifying the proposed distribution of the purchase money, and stating that in his belief there is no right, estate, interest, or claim affecting the same, or made in respect thereof, other than as therein set forth.

To be by motion on notice grounded on affidavit.

The Judicial Commissioner by whom the motion is heard may make an order for such distribution or allocation, or may order such money to be invested in any of the stocks, funds, or securities for the time being, authorised for the investment of cash under the control or subject to the order of the High Court, and the dividends thereof to be paid according to the respective estates, titles, or interests of the parties making claim to such money or any part thereof, or may adjourn the case for further evidence, or may refer the case back to the Examiner for further inquiry and report, or may make such other order in the premises as the Judicial Commissioner shall seem fit.

Provided always that a Judicial Commissioner, if satisfied that the delay caused by proceeding by motion on notice would or might entail irreparable or serious mischief, may make any order *ex parte* upon such terms as to costs, or otherwise, and subject to such undertakings, if any, as may be just, and any party affected by such order may move to set it aside.

7. The notice of motion under Rule 6 of this Order shall have a schedule annexed thereto, to be styled the Payment Schedule, which shall be headed with the title of the matter, and shall set out in a tabular form :—

Notice of motion to have payment schedule annexed.

(*a*) The name of each person to whom a payment or transfer of any funds is to be made. The name shall be in full except in the case of a payment to a firm when the business title of such firm may be stated, and, when a payment is to be made to a person named in the Schedule, the address (if known at the time of preparing the Schedule) of such

person or, in the case of a payment to two or more persons jointly, of one of such persons shall be stated in the Schedule.

(*b*) The title of the separate account to which any funds are to be carried over.

(*c*) The amount and description of the funds in each case to be paid, sold, transferred, carried over or otherwise dealt with so far as the same can then be stated.

(*d*) The nature and necessary particulars of any dealings with such funds by the accountant.

Form of payment schedule and Judicial Commissioner's ruling thereon.

8. The Payment Schedule shall be in Form 2 and shall have a blank column, wherein the Judicial Commissioner may enter any ruling he may think fit opposite any item therein. The Payment Schedule in which the Judicial Commissioner shall enter any ruling shall be filed, and the rulings thereon shall have the effect of an order, but the Judicial Commissioner shall, at the instance of any party interested, cause an order to be prepared in conformity with any such ruling which shall be entered in the "Order Book."

The Payment Schedule so ruled shall not be taken out of the office without the permission of a Commissioner.*

Preparation of final schedule of incumbrances.

9. If the Examiner is unable to give the certificate prescribed by Rule 4 of this Order, he shall, as soon as the requisitions on title have been complied with, unless the Judicial Commissioner otherwise directs, either cause to be prepared, and settle a final Schedule of Incumbrances in accordance with Order III. of the Rules dated 17th May 1901, and the Directions dated 16th January 1901, in so far as the same may be applicable, or he may require the vendor or his solicitor to bring in a draft of such Schedule for settlement.†

In absence of objection, schedule to be vouched before ruling.

10. Unless an objection be lodged to the final Schedule of Incumbrances, or any question arises thereon as regards which the Examiner requires a Judicial Commissioner's directions before vouching, he shall, as soon as the time for lodging objections has expired, cause the matter to be entered in his list for vouching with a view to the distribution of the fund on the day on which the Schedule shall be ruled.

Application by owner of superior interest or an incumbrancer for payment of income pending allocation.

11. The application by the owner of a superior or intervening interest, or an incumbrancer for an order that payment in respect of the annual income of his claim be made to him out of the interest on the purchase money, or the dividends upon the investments representing the purchase money as the case may be, may be made *ex parte* if grounded on consent, and in other cases shall be made by motion on

* See Form 2, *post* p. 538.

† See Rules of 17th May 1901, and Directions of 16th January 1901, *ante* pp. 471 and 473.

notice to the vendor, and, if the application is by an incumbrancer, also on notice to any prior incumbrancer or owner of a superior or intervening interest whose claim might be thereby affected; such motion to be moved not sooner than four clear days after service of the notice thereof, and to be grounded upon an affidavit made by the applicant or his solicitor which shall state shortly the particulars of the applicant's claim, and such information as to prior claims or incumbrances (if any) or otherwise as may be necessary to sustain the application, and shall show either that some part of such annual income has been due for three months and is unpaid, or some other substantial reason why the order asked for should be made.*

Satisfaction of claims not specifically provided for.

12. In the case of the sale of an estate under Part I. of the Act of 1903, or of land to the Congested Districts Board under Section 79 of the same Act, a Judicial Commissioner may ascertain the amount and value, and award a specified sum of money in discharge, redemption or satisfaction of any claim upon the purchase money in respect of any estate, right, title, or interest of any person affecting the lands or any part thereof at the time of the sale (the redemption or satisfaction of which is not otherwise provided for), and may generally make such order as to any such claim or the redemption price thereof as may be just.†

Order X.

Payment out of the Land Purchase Aid Fund (*Section* 48).

1. Payment of a sum out of the Land Purchase Aid Fund shall be made in pursuance of an order signed by a Commissioner. Any sum so payable in respect of an estate sold by the Land Judge may be paid at the same time as the purchase money is paid to the account of the Accountant-General of the Supreme Court of Judicature in Ireland for the credit of the matter in which the sale was made. In the case of other sales payment may be made at the time of the allocation of the purchase money unless a Judicial Commissioner ‡ otherwise orders. §

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* See Sect. 24 (5), Act 1903, *ante* p. 80.

† See Sect. 24 (6) and Sect. 79, Act 1903, *ante* pp. 80 and 151.

‡ See Sect. 48, Act 1903, *ante* p. 97.

§ When vouching the vendor's claim to the bonus before the Examiner, the vendor's solicitor must produce a certificate from the Registrar stating whether an order has been made by the Court as to parties to receive notice of any proposed dealing with the bonus. See Directions of 21st November 1905, *post* p. 558.

Order XI.

Nomination of Person interested in Holding to be the Proprietor thereof.

Form of request to nominate and lodgment of same.

1. The request by a person interested in a holding liable to be sold by or at the instance of the Land Commission under the provisions of Sub-section 1 of Section 54 of the Act of 1903, to have a person nominated by the Land Commission to be the proprietor of such holding, shall be lodged in the Registrar's Office, and shall be written on foolscap paper with sufficient margin and follow Form 3. The request shall state the event upon the happening of which the holding became liable to be sold, the interest of the person making the request, the particulars of the claims of all other persons including creditors interested in the holding, in so far as such claims may not be entered upon the Register of Titles, the name, address, and profession, trade, occupation, or designation of each claimant, and the particulars of the relief sought, and shall be verified by the affidavit of the applicant.*

Documents to be lodged with request.

2. Together with the request there shall be lodged a certified copy of the Folio of the Register of Titles upon which the title to the holding is entered, and copies of any grant of probate, or of letters of administration, or other instrument referred to in the request.

Request to be laid before Judicial Commissioner for directions.

3. The request, when lodged, shall be laid before a Judicial Commissioner, who may thereupon cause such notices to be given, accounts taken, inquiries made, or generally make such order as may appear expedient and just; provided always that the Judicial Commissioner may refer any such request to any Land Commissioner to be dealt with by him.

Nomination to be by order.

4. A nomination made in pursuance of a request shall be by order, which shall be entered in the Order Book, and a copy thereof signed by the Registrar shall be transmitted to the Registrar of Titles.

Order XII.

Relief of Trustee in case of Breach of Trust.

1. An application by a trustee for relief in pursuance of Sub-section 4 of Section 51 of the Act of 1903 shall be made by motion to a Judicial Commissioner upon notice to the person or persons appearing to be directly affected by the breach of trust, and shall not be moved sooner than 7 clear days after the date of the service thereof;

* See Sect. 54 (1), Act 1903, *ante* p. 116, and see Form 3, *post* p. 538.

provided always that such Judicial Commissioner may, if he think fit, dispense with service of notice on any person, and may likewise direct notice to be given to any person or persons whom he considers should have notice, and may award costs to the applicant, or to any other person appearing, and direct by whom, or out of what fund such costs are to be paid.*

Order XIII.

Ratification of Exchange of Land.

1. Before any order is made in pursuance of Sub-section 1 of Section 60 of the Act of 1903, unless such order is being made with the consent of the owners of the respective estates to be thereby affected, it shall be the duty of the person having the carriage of the proceedings or his solicitor to prepare, and lodge for settlement by the proper officer, a notice of the application for such order, specifying the particulars of the exchange, and referring to a map or plan showing the land given and taken in exchange respectively, and also specifying a day upon which the application will come before the Judge for adjudication.† Notice of application to be lodged for settlement.

2. Such notice, when settled, shall be signed by the proper officer, and shall be served not less than 14 clear days before the day upon which the application is to come before the Judge upon such of the owners of the respective estates affected by the exchange as may not be parties to the application. On whom notice is to be served.

3. If the persons to be served reside within the United Kingdom, service may be made by registered letter if satisfactory proof of residence is given; and, if not, service must be personal unless the Judge permits some other mode of service. Method of service on persons within United Kingdom.

4. If the persons to be served do not reside within the United Kingdom, application may be made to the Judge in Chamber for directions as to the mode of service, and the period to elapse between the service and adjudication. As to persons not within United Kingdom.

Order XIV.

Order to Sheriff to put Nominee of Land Commission in possession of Holding.

1. An application for an order to the sheriff to put a person nominated by the Land Commission in possession of a holding in pursuance of the provisions of Section 65 of the Act of 1903 shall be made by the solicitor to the Land Commission to a Judicial Commissioner by motion on notice, and shall be supported by an affidavit Application to be by motion to a Judicial Commissioner on notice.

* See Sect. 51 (4), Act 1903, *ante* p. 103.

† See Sect. 60 (1), Act 1903, *ante* p. 127.

showing that the Land Commission are entitled to cause the holding to be sold, had put up the same for sale by public auction, and that the same had not been sold.*

On whom notice is to be served.

2. Such notice shall be served upon every person in the actual occupation of the holding or any part thereof not less than 4 clear days before the day on which the motion is to be moved, and upon such other persons as such Judicial Commissioner may direct, and the affidavit of service of such notice shall state that the deponent does not know of any person other than those who have been served who are in actual possession of the holding or any part thereof.

Form of order.

3. The order may be in Form 4, and shall be signed by the Registrar, and sealed with the seal of the Land Commission, and the delivery thereof to the sheriff shall be sufficient authority to him to forthwith execute the same.†

Order XV.

Guarantee Deposits.

1. Rule 13 of Order XXIII. of the Rules of 1897 is hereby rescinded.‡

Order XVI.

Purchase of Estates.

Order XXXVIII. of the Rules of 1897 is hereby rescinded.§

Order XVII.

Sales under Section 40 *of the Land Law* (*Ireland*) *Act*, 1896.

1. Rule 1 of Order XXXIX. of the Rules of 1897 shall be read and construed as if "the" were substituted for "two" and "a Judicial Commissioner" for "the Judicial Commissioner" where the same occur therein respectively; Rule 2 of the same Order shall be read and construed as if "the Commissioner" were substituted for "such two Commissioners"; Rule 3 of the same Order is hereby rescinded, and Rule 4 of the same Order shall be read and construed as if "the Commissioner" were substituted for "the Commissioners" and "Commissioner" for "two Commissioners." ‖

2. If the Land Judge refers the report of a Commissioner to the Land Commission for reconsideration the three Commissioners who shall reconsider the report shall be selected in such rotation as the Land Commission may from time to time direct.

* See Sect. 65, Act 1903, *ante* p. 145. † See Form 4, *post* p. 540. ‡ See p. 396 *ante*.
§ See p. 409 *ante*. ‖ See pp. 410 and 411 *ante*, and see Sect. 58, Act 1903, *ante* p. 124.

Order XVIII.

Appointment of Limited Administrator.

1. An application to appoint a proper person to be administrator of a deceased applicant for an advance which has been made under the Land Purchase Acts limited to the purposes of the sale, shall be by motion to a Judicial Commissioner, on notice to any person in occupation of the lands in respect of which the advance was made, and such other persons as may appear to be thereby affected, or such Judicial Commissioner may direct, and shall be supported by an affidavit proving the death of the deceased applicant for the advance, whether he made a will, whether representation to him has been raised, and generally the reasons why a limited administrator should be appointed, and by evidence of the fitness of the proposed administrator, and, unless the motion is made on his behalf, evidence of his consent to act as such.*

Application to be by motion to a Judicial Commissioner on notice.

2. When land is by order vested in a limited administrator the fact shall be stated on the face of the vesting order.

Administrator to be described as such in vesting order.

Order XIX.

Publications.

1. Notices to claimants when directed to be published shall be published by the Land Commission in the Dublin Gazette, but the Commissioner or Examiner, as the case may be, may direct such other publications as he may think fit, and all publications and advertisements directed by the Land Commission shall be made without charge to the vendor.

Order XX.

Costs.

1. Rules 4, 10, and 15 of Order XLVI. of the Rules of 1897 are hereby rescinded.†

2. In the absence of any agreement to the contrary between a solicitor and his client, the costs incurred in the course of proceedings in the Land Commission under the Land Purchase Acts shall be

Costs to be taxed in accordance with schedule of fees and on notice.

* See Sect. 69, Act 1903, *ante* p. 147.

† See pp. 416, 417, and 418 *ante*.

taxed by the Solicitor to the Land Commission in accordance with the Schedule of Fees in the Appendix hereto, and on notice to such persons as the Examiner shall certify. The certificate of the Solicitor to the Land Commission shall be final if not varied by the Commissioner.*

Order XXI.

Judicial Commissioner.

1. When any Rule or Order provides that any application shall be made to, or any jurisdiction or act shall be exercised or done by a Judicial Commissioner, the Judicial Commissioner may, in so far as there is no Statutory provision to the contrary, by writing under his hand direct that any such application may be made to, or jurisdiction or act exercised or done by such other Commissioner as he may with the consent of such other Commissioner appoint.

(Signed),

Seal of the Land Commission.

R. E MEREDITH.
GERALD FITZGERALD.
FREDK. S. WRENCH.
ML. FINUCANE.
W. F. BAILEY.

* See Schedule of Fees, *post* p. 541.

APPENDIX.

Form No. 1.

Undertaking to apply redemption price of superior interest as if it were capital money arising under the Settled Land Acts, 1882 *to* 1890.

Court of the Irish Land Commission.

Land Purchase Acts.

Record No.

In the Matter of the Estate of a Vendor of Land.

I, *A.B.*, of the person [now *or* lately] in possession or in receipt of

[*Here describe the superior interest.*]

hereby undertake in case the Irish Land Commission shall pay to me the redemption price thereof

[*Or*]

WE, *C.D.*, of and *E.F.*, of the trustees

[*Here state the capacity in which they are trustees, and whether appointed or approved by the Land Commission.*]

hereby undertake in case the Irish Land Commission shall pay to us the redemption price of

[*Here describe the superior interest.*]

to apply such redemption price as if it were capital money arising under the Settled Land Acts, 1882 to 1890.

Dated this day of 19 .

Signed in presence of } (Signed) *A.B.* [*or*] *C.D.* and *E.F.*

FORM No. 2.

Payment Schedule.

COURT OF THE IRISH LAND COMMISSION.
LAND PURCHASE ACTS.

Record No. . In the Matter of the Estate of a Vendor of Land.

Funds in Court :—

Number of Claim on Allocation Schedule.	Particulars of Payments, Transfers, or other operations ordered.*	Payees and Transferees or separate accounts.	Amounts.						Rulings of Judge.
			Money.			Securities.			
			£	s.	d.	£	s.	d.	

* NOTE.—In the case of an investment or sale, insert "Invest" or "Sell" in this column, and leave third column blank.

FORM No. 3.

Request to nominate a Person to be the Proprietor of a Holding.

COURT OF THE IRISH LAND COMMISSION.
LAND PURCHASE ACTS.

In the Matter of a Holding in the Townland of in the Barony of and County of now or lately in the possession of *A.B.*, the title to which is entered on Folio of the Register of Titles.

The request of *C.D.*, of in the County of showeth :—

1. The above-mentioned holding became liable to be sold by or at the instance of the Land Commission under the provisions of Sub-section 1 of Section 54 of the Irish Land Act, 1903, by reason of

[*Here state accurately and concisely the event upon the happening of which the holding became liable to be sold, giving dates and all necessary particulars.*]

2. My interest in the said holding is as follows :—

[*Here state the interest of the person making the request.*]

3. I have in the schedule hereto set forth the particulars of the claims of all other persons, including creditors, interested in the holding, whose claims are not entered upon the above-mentioned Folio of the Register of Titles, and I know of no other claim affecting the holding.

[*Or*]

3. There are no claims either of creditors or other persons affecting the holding which are not entered upon the above-mentioned Folio of the Register of Titles.

4. I request the Irish Land Commission to nominate *E.F.*, of in the County of being a person interested in the said holding as

[*Here state how he is interested.*]

to be the proprietor of the holding; and I further request the Irish Land Commission

[*Here state any application which the person making the request wishes to make as to the satisfaction of claims or otherwise.*]

Dated this day of 19 .

(Signed) *C.D.*

SCHEDULE ABOVE REFERRED TO.

Name, address, and profession, trade, occupation, or designation of each Claimant.	Particulars of Claim.	Amount, if claim be for a sum of money.		
		£	s.	d.

NOTE.—The Claims should, as far as possible, be arranged in order of priority.

I, the before-named *C.D.*, make oath and say that I have read the foregoing request and the schedule annexed thereto, and that the several allegations contained therein are true to the best of my knowledge, information and belief.

Sworn, &c.,

FORM NO. 4.

Order to Sheriff to put a nominee of the Irish Land Commission in possession of a Holding.

COURT OF THE IRISH LAND COMMISSION.

LAND PURCHASE ACTS.

In the Matter of the Holding of

in the Townland of Barony of

and County of

Upon motion of the Solicitor to the Irish Land Commission and on reading
and it appearing that the Irish Land Commission are entitled to cause the holding hereinafter mentioned to be sold, and that the said holding has been put up for sale by public auction and has not been sold, *A.B.*, is hereby nominated to be put in possession of the said holding on behalf of the said Commission. And IT IS ORDERED that the Sheriff of the County of do without delay cause the said *A.B.*, as the nominee of the Irish Land Commission, to have possession of that part of the lands of now or lately in the possession of containing acres roods and perches statute measure or thereabouts and situate in the Barony of and County of with the appurtenances.

And that in what manner he shall have executed this order he do make appear to the said Court immediately after the execution thereof.

Dated this day of 19 .

Registrar.

SCHEDULE OF FEES.

	£	s.	d.
ABSTRACT—See Drafts.			
AFFIDAVIT:			
Draft affidavit per folio	0	1	0
To Solicitor for marking each exhibit referred to in an affidavit	0	1	0
Commissioner's fee for marking each such exhibit .	0	0	6
Not to exceed in all	0	10	0
AGREEMENTS for purchase and applications for advances:			
Solicitor's fee for preparing and completing agreement for each sale on an estate, provided six months have elapsed since the completion of the previous sale, including all scrivenery and printing, fees, attendances, and other business incident to the preparation, lodgment, and verification of same, but exclusive of the expenses of maps and other necessary expenditure.			
For one such agreement, the purchase money being £500 or under	1	0	0
For one such agreement when the purchase money exceeds £500	2	0	0
For two or more agreements not exceeding five such agreements in the same estate . . .	3	0	0
For each subsequent agreement after five, not exceeding ten	0	10	0
For each subsequent agreement after ten, not exceeding one hundred	0	6	0
For each subsequent agreement after one hundred .	0	4	0
Provided that in case of a joint agreement (Form G) the solicitor shall be entitled to charge as if each tenant in such agreement had signed a separate form.			

	£	s.	d.
Where agreements are prepared and completed by the Vendor without the assistance of a Solicitor, but the latter is employed to lodge the agreements in the Land Commission Court:			
For lodging one or more such agreements not exceeding five	0	13	4
For lodging more than five and not exceeding fifty .	1	0	0
Exceeding fifty	2	0	0
ALLOCATION SCHEDULE OR FINAL SCHEDULE OF INCUMBRANCES:			
For preparing Allocation Schedule or Final Schedule	0	10	0
Or at the option of the Solicitor for each item except costs of Sale	0	5	0
AMENDMENTS:			
No charge to be allowed for any amendment in an originating application, abstract of title or other document lodged in Court by a Solicitor unless specially allowed.			
APPEARANCES:			
Entering an appearance	0	6	8
If more than three persons included in one appearance, for each three	0	6	8
APPORTIONMENT OF TITHE RENT-CHARGE:			
Fee for preparing and lodging form of application for apportionment of Tithe Rent-charge payable to the Land Commission; including calculations of apportionments and scrivenery . .	0	10	0
Or at the option of the Solicitor per folio . .	0	1	0
ATTENDANCES:			
For each day Cause or Motion in Day List and not at hearing	0	6	8
Each day it is at hearing	0	13	4
Or such further reasonable sum as the Taxing Officer may on special grounds allow, having regard to the nature and importance of the case, not to exceed in one day . . .	2	0	0
(A fee of 13s. 4d. is allowed on motions where an order is made up by the Registrar or pronounced by the Court. Not to be allowed			

	£	s.	d.
unless a competent person attends acquainted with the facts, and having the proper documents in readiness.)			
On each witness taking evidence	0	6	8
Counsel with brief, case, or other instructions .	0	6	8
To settle and afterwards to read over the engrossments of an affidavit	0	6	8
To be increased according to circumstances, but never to exceed in town	1	0	0
Each newspaper in which an advertisement is inserted	0	3	4
Printer to have notice or other document printed .	0	6	8
To procure Accountant's account or certificate of funds	0	3	4
For certificate of deeds lodged	0	3	4
For certificate of appearances, objections, or claims lodged, each	0	3	4
To be increased according to circumstances, each to	0	6	8
Certificate of lodgment of abstract of title . .	0	3	4
Examiner to settle and sign advertisements . .	0	6	8
Consultation of Counsel	0	13	4
To obtain consent to act as Guardian *ad litem* or next friend	0	6	8
To procure consent to be signed by another Solicitor	0	6	8
If to be signed by two	0	13	4
If by a greater number, but never to exceed . .	1	0	0
To bespeak all necessary documents	0	6	8
To file same	0	6	8
If several affidavits or other documents ought to be filed or bespoken at one time from one Officer, the Taxing Officer is to exercise his discretion to increase this charge, but never to allow more than	1	0	0
For all attendances to lodge money in Bank, including the procuring of the privity	0	13	4
Of Solicitor, if such attendance is elsewhere in Ireland than at his office or residence, and the Solicitor is necessarily occupied for one or more entire day or days, or for a period equal to one entire day, solely on his client's business, for each such day, exclusive of actual travelling expenses	3	3	0

	£	s.	d.
A proportionate smaller sum to be allowed for a portion not exceeding three hours of any such day.			
If such attendance is out of Ireland, for each day on which the Solicitor is necessarily absent from Ireland, solely on his client's business, exclusive of actual travelling expenses	5	5	0
Of a Clerk in the country (when necessary), including all expenses except carriage hire for each day	1	10	0
At Valuation Office to bespeak Ordnance Map and Certificate of Valuation	0	6	8
To register or enrol any deed or order, and for all duties relating thereto, including the returning of the deed or order and the correcting of same and memorial, and drawing and signing certificate and affidavit	1	0	0
If a document be obtained through a Solicitor, each Solicitor to be entitled to a fee of 6s. 8d. for attendance therewith			
On Registrar for bespeaking and for Order . .	0	6	8
For each proper and necessary attendance where not already provided for, at per hour or fraction of an hour	0	6	8
Not to exceed in one day	1	0	0

CERTIFYING:

Certifying any deed, instrument or writing when required by the Court	0	2	6

COMMISSIONER OF OATHS:

Commissioner's fee for affidavit of each deponent .	0	1	6
Commissioner's fee for marking each exhibit . .	0	0	6
Not exceeding in all	0	10	0

CONSENT TO REDEEM UNDER REDEMPTION OF RENT ACT:

Fee for preparing, completing and lodging consent to redemption under Redemption of Rent (Ireland) Act, 1891	1	0	0

	£	s.	d
CONVEYANCING:			
For drawing any deed, final order for partition, apportionment, memorial, or other instrument, per folio	0	2	0
Where the draft exceeds 100 folios, the excess to be allowed at, per folio	0	1	0
Engrossing, per folio	0	0	8
COPIES:			
Copies of all notices, deeds, affidavits, and other documents, not otherwise provided for, for 6 folios or under	0	2	0
For each succeeding folio	0	0	4
COSTS—See Taxation of.			
DRAFTS:			
For drafting affidavits, accounts, charges, discharges, abstracts of title (so far as the Examiner shall certify his approbation thereof), statements, consents, undertakings, admissions, objections, requests, advertisements, cases or instructions for Counsel, and all other proper and necessary documents, for the drafting of which a specific fee is not already hereby provided, for every six folios or fractional part thereof . .	0	6	0
To the Solicitor who has obtained an order (where he shall be required by the proper officer to draft same, and such officer shall so certify), for drafting same, including copy for use and fair copy for Court and attendance to have settled	0	6	8
Drawing certificate of appearances, if under 5 folios	0	3	4
For each additional folio beyond five	0	0	8
Docket for search in any office, except the office of Registration of Deeds, including draft and one copy	0	3	4
Drawing necessary receipt and signing when no attendance charged	0	3	4
Drawing Schedule of Tenancies, including all attendances for and perusals of tenants' leases and other documents, for each tenancy . . .	0	1	0
Or for entire Schedule at option of Solicitor . .	0	10	0

	£	s.	d.
ENGROSSMENTS:			
Engrossing any deed or memorial, per folio . .	0	0	8
Engrossing any document other than a deed or memorial, per folio	0	0	4
Engrossing requisition for deed search . . .	0	5	0
Or at option of Solicitor, per folio	0	1	0
EXHIBITS:			
Solicitor's fee for marking exhibits, for each exhibit	0	1	0
FEES:			
Signing fee on any document requiring signature .	0	3	4
INSTRUCTIONS:			
Ordinary instructions, and instructions for briefs, apportionments, affidavits, objections, statements of facts, or to enter appearance or continuing proceedings in name of new party	0	6	8
To be increased according to circumstances, but not to exceed (save by direction of a Commissioner)	5	0	0
INSTRUCTIONS FOR DEEDS:			
Such fees for instructions as, having regard to the care and labour required, the number and length of documents to be perused, and the other circumstances of the case may be reasonable.			
LETTERS:			
Writing letter, signing and entry	0	3	4
If several of same import, for each one after the first	0	2	0
LIS PENDENS:			
Fee on registering a *lis pendens* (including stamp duty and outlay)	1	0	0
Fee on registering every subsequent *lis pendens*, exclusive of outlay	0	3	4
MARKING NAMES:			
Marking the names of parties to be served on any notice and attending to transmit . . .	0	3	4

	£	s.	d.
NOTICES:			
Drawing special notice	0	5	0
Or, at option of Solicitor, per folio	0	0	8
Drawing a common notice	0	2	6
Drawing payment Schedule to annex to notice of motion, per folio	0	0	8
NEW SOLICITOR:			
Fee to new Solicitor for reading documents and proceedings	1	0	0
(To be increased under special circumstances, at the Taxing Officer's discretion.)			
ORIGINATING APPLICATION:			
Instructions for Originating Application or Statement or Originating Request, including all Schedules other than Schedule of Tenancies and all attendances and other business incident to the drafting, preparation, lodgment, verification, printing and scrivenery of same, exclusive of the expenses of maps and other necessary expenditure and travelling expenses . .	4	0	0
Or such further reasonable sum as the Taxing Officer may on special grounds allow, having regard to the nature and difficulties of the case, not to exceed £20 unless by special direction of the Commissioner.			
If an Originating Application, Statement or Request is settled by Counsel, his fee may be allowed at the discretion of the Taxing Officer.			
PERUSALS:			
Perusing and abstracting deeds for *primâ facie* title set out in Originating Application or for Abstract of Title, for each skin of 15 folios .	0	3	0
Not more than eight skins to be allowed for any deed or instrument.			
No fee for perusing a document where the Solicitor has been paid for perusing same within a period of two years prior to the preparation of the Abstract.			
Perusing or comparing any deed or instrument for			

	£	s.	d.
purposes other than the abstract of title, for each skin	0	2	0
For perusing accounts, statements, special affidavits or objections, reports, and also old abstracts of title used for purposes of showing title in a pending matter	0	6	8
Or, at the option of Solicitor, per folio . . .	0	0	4
But not to exceed £5, unless by order of a Commissioner.			
POSSESSION:			
Fee for attending for Order to Sheriff to put purchaser into possession, getting up order and lodging same with Sheriff	2	0	0
REQUISITIONS:			
For filling, completing, and lodging Requisition to have Order of a Commissioner reconsidered .	0	10	0
Or, at option of Solicitor, per folio	0	1	0
SEARCHES:			
Hand Search, per hour	0	6	8
Attendance on Search for Judgments, &c., and for all documents in any Public Office when made by Officer, including attendance to bespeak, and for Search, where only one such search .	0	13	4
Where more than one such search, for each subsequent search after the first	0	6	8
Filling docket for Search	0	3	4
Fee and attendance on Search in the Registry of Deeds, whether Common or Negative, made by officer	0	13	4
If made by Solicitor, for each hour	0	6	8
Not to exceed in one day	1	6	8
Search by Solicitor for judgments, for each name .	0	6	8
Search by Solicitor in any Public Office, per hour .	0	6	8
SERVICE OF NOTICES OR OTHER DOCUMENTS NOT SERVED THROUGH NOTICE OFFICE:			
In the City of Dublin, each person served . .	0	2	6
In the County of Dublin, or in any city or town other than Dublin	0	5	0
In other places	0	10	0

	£	s.	d.
SIGNING FEE:			
Signing any document requiring signature . .	0	3	4
STATEMENT OF FACTS:			
Drawing any statement of Facts	1	0	0
Or, at option of Solicitor, per folio	0	1	6
TAXATION OF COSTS:			
Drawing costs for taxation, per item . . .	0	0	1
Attending to lodge and get day for taxation . .	0	6	8
Attending on taxation, for each 100 items . .	0	6	8
Preparing and engrossing Certificate of taxation of costs	0	5	0
Like Certificate of non-payment on account of costs	0	5	0
Perusing bill of costs by opposing Solicitor, for each 100 items	0	3	4

N.B.—Where an affidavit is annexed to a document merely to verify or identify it, the entire is to be considered as one document and no separate fees are to be allowed for attendance, draft, engrossment, copy, or signature.

DIRECTIONS AS TO THE PREPARATION OF ABSTRACTS OF TITLE.

4TH DAY OF DECEMBER 1903.

The Ordnance Survey names of the lands to which, or to the proceeds of the sale of which, title is being shown should be set forth at the head of the abstract, and if title is being shown to a portion only of any townland, or the proceeds of the sale of such, the area in statute measure of such portion should be set out.

The date of every instrument abstracted, and of the registration or enrolment thereof should be stated in the margin: if the instrument has not been registered, a statement to that effect should appear in the margin. In the case of a will, the date of the document itself and of the granting of probate, and of the testator's death, should appear in like manner. It should also be stated whether the original instrument abstracted or a copy is lodged, and if the original be not lodged its absence should be accounted for. If neither the original nor a copy be forthcoming there should be a reference to the evidence from which the abstract was prepared.

The abstract should commence with the root of title. If the lands are held under lease the lease should be abstracted. It will not be necessary to state all the intermediate steps down to the date of the abstract. As a general rule it will be sufficient to derive title from some person absolutely entitled to the fee or to a lease about forty years prior, but in this connection it should be remembered that under Section 2 of the "Vendor and Purchaser Act. 1874," recitals, statements, and descriptions of facts, matters, and parties contained in instruments, or statutory declarations twenty years old shall, unless and except so far as they shall be proved to be inaccurate, be taken to be sufficient evidence of the truth of such facts, matters, and descriptions. Every instrument relating to the title should be abstracted, but mortgages which have been paid off, and the lands reconveyed, should not be abstracted at length but merely stated as shortly as possible. An abstract ought to be a careful abridgment, not a mere copy of the instrument or of any part thereof. Conciseness may be obtained by avoiding the introduction of unnecessary or duplicate words to express the same idea, and by confining the abstract of common clauses to a mere reference to them: thus such language as—"a certain bond or obligation," "upon, to, and for," ought not to be used in an abstract, and is likely to lead to a ruling whereby a considerably less sum may be allowed as costs than would be allowed in the case of an abstract of equal length

properly drawn. The names and descriptions of the parcels in a deed should be accurately set out, and they should be identified with the names and descriptions at the head of the abstract if they materially differ therefrom; but if they are afterwards granted in any other deed by the same names and descriptions it will be sufficient in abstracting such other deeds to state that they are conveyed by the same names and descriptions as in the former deed: or, if the variance is very slight, it will be sufficient to show what the variance is. The same remark is applicable to wills. The common clauses in a deed, such as covenants for title, for quiet enjoyment, for further assurance, and against incumbrances, for indemnity of trustees, payment of rent, cesser of terms, &c., should be referred as briefly as possible: *the contracts, consideration, and habendum should be more fully abstracted, and so should the limitations as far as may be necessary:* that is to say, if a limitation has taken effect, whereby it has become impossible that the subsequent limitations can take effect, the latter should not be abstracted, *e.g.* if any tenant in tail has after coming into possession executed a disentailing deed duly enrolled, the subsequent limitations should be omitted from the abstract. Recitals of deeds previously abstracted or recited should be referred to thus—"And reciting the deed of 14th July 1847, abstracted (or recited), page 6." At the end of every deed it should be stated by what parties it has been executed, and with what solemnities (if any): and if it has been enrolled, or acknowledged by a married woman, or the acknowledgment certified, such facts, with the dates thereof, should be stated. If the instrument abstracted is a marriage settlement it should be immediately followed by a statement of the issue of marriage, and of the dates of their respective births, and of the deaths of such of them as are dead. When an estate is transferred by the death of any person, the date of his death should be stated, and the date of the death of any person having powers of charging should be stated. When a person takes as heir, it is not enough to state that he is heir; it must be shown *how* he is heir by setting out so much of the pedigree as proves it. Births, deaths, and the facts of pedigree, when stated, should be accompanied by a reference to the evidence by which such facts are proved.

Where upon the death of any person Crown duties became payable, a statement should appear on the abstract as to whether such duties have been paid or not, and the receipt for the payment of any such duty, if forthcoming, should be lodged.

In every abstract the deduction of title to the lands should be carried on continuously from its commencement to its completion, and should not as a general rule be interrupted by introducing the deduction of title to charges or incumbrances, especially if such

charges are still existing, or any other collateral matter. The title to such charges or incumbrances, if necessary, and the instruments dealing with them, should be set forth in a separate part of the abstract, with a proper heading for each charge or incumbrance; and a reference to the page of such devolution of title to the incumbrance should be made when the creation of the incumbrance is stated in its proper place.

When an abstract of title has been prepared for any purpose other than a sale in the Land Commission, it should be produced to the Examiner together with such evidence, if any, as may be necessary to show the purpose for which it was prepared, and his directions taken as to whether the title may merely be continued from the close of such abstract or how far it may be utilised. Such abstract, if used for the purpose of a sale or mortgage effected not less than six years prior to the proceedings, may, by permission of an Examiner, to be given in writing in the fold thereof, be lodged without a verifying affidavit, but on the reading the Examiner may, if he deem it necessary, direct the same to be verified.

By Order,

JOHN H. FRANKS,

Secretary.

IRISH LAND COMMISSION,
DUBLIN.

The following Memorandum has also been issued by the Examiners of Title:—

Where title is being shown to the proceeds of the sale of an estate sold under the Irish Land Act, 1903, which estate formed the residue not sold under the Land Purchase Acts of lands comprised in the Originating Statement filed under those Acts the title to which had been ruled, the Solicitor should confine his abstract to a suitable reference to the former proceedings, and an abstract of any instrument or matter not disclosed in the course of such proceedings, and, as soon as he has lodged such abstract of title and the draft allocation schedule with the Keeper of the Records, he should attend the Examiner who ruled or noted the title in the former proceedings, and bring the rulings issued in such proceedings with him, with a view to the avoidance of delay in the issue of rulings which may be of a very simple character.

As to delivery of Deeds to the Solicitor having carriage without an order from the Examiner, *see* Directions of 19th January 1906, *post* p. 559.

NOTICE.

February 1904.

Title to Superior Interests.

The title to the price or compensation payable in respect of a Superior Interest shall be shown *by affidavit* concisely and clearly giving the effect of each document rather than a detailed abstract of its contents.

The affidavit shall state how it is proposed that the fund shall be applied.

Before making any affidavit or lodging any documents in cases where the redemption money is *under* £100 an application shall be made to an Examiner for directions.

No abstract of title to superior interests shall be received without the permission, in writing, of an Examiner.

By Order.

LAND COMMISSION.

Provisional Rules of 5th May 1904.

The Consents mentioned in Rules 144 and 146 respectively of the Rules of the 2nd day of January 1897, under the Land Law Acts, shall be accompanied by an affidavit by the Landlord or his agent, or by the Tenant, stating:—

(1) Whether the holding is substantially agricultural or pastoral in its character, or partly agricultural and partly pastoral.

(2) Whether the tenancy was in existence at the date of the passing of the Land Law (Ireland) Act, 1881, and if not, when and how such tenancy was created.

(3) If the holding is held under a lease, whether it is one to which Section 1 of the Land Law (Ireland) Act of 1887 applies.

(4) Whether any contract for sale of the holding under the Land Purchase Acts has been entered into, and if so, whether the contract or any agreement collateral therewith contains any provision affecting the consents or consent, in case the sale is not carried out.

(Signed) R. E. MEREDITH.
GERALD FITZGERALD.
FREDK. S. WRENCH.
S. J. LYNCH.
MURROUGH O'BRIEN.
M. FINUCANE.
W. F. BAILEY.

Seal of the Irish Land Commission.

LAND PURCHASE ACTS.

IN THE HIGH COURT OF JUSTICE IN IRELAND.

Chancery Division—Land Judges.

WE, the Right Honourable Edward Baron Ashbourne, Lord High Chancellor of Ireland, and the Right Honourable John Ross, Land Judge of the Chancery Division of the High Court of Justice in Ireland, in exercise of the powers in that behalf conferred by Section 2 of the Rules Publication Act, 1893, hereby certify that on account of urgency the Rules set forth in the Schedule hereto should come into immediate operation, and hereby order that the said Rules shall come into operation forthwith as Provisional Rules and continue in force until Rules shall have been made in accordance with the provisions of the above-mentioned Act.

Dated this 13th day of February 1905.

Ashbourne, *C.*
John Ross.

The Schedule referred to.

It is this day ordered that the following General Rules and Orders shall, until further order, take effect and be in force in the Court of the Land Judge of the Chancery Division of the High Court of Justice in Ireland in relation to proceedings under and in pursuance of the Land Purchase Acts.

Order I.

In these Rules (unless the context otherwise requires) "the Act of 1903" shall mean the Irish Land Act, 1903.

Order II.

Ratification of Exchange of Land.

Notice of application to be lodged for settlement.

1. Before any order is made in pursuance of Sub-section 1 of Section 60 of the Act of 1903, unless such order is being made with the consent of the owners of the respective estates to be thereby affected, it shall be the duty of the person having the carriage of the

proceedings, or his Solicitor, to prepare and lodge for settlement by the proper officer, a notice of the application for such Order, specifying the particulars of the exchange, and referring to a map or plan showing the land given and taken in exchange respectively, and also specifying a day upon which the application will come before the Judge for adjudication: Provided, however, that the notice above prescribed may be given by embodying same in the final notice to tenants and adjoining owners and occupiers served under the general orders under the Landed Estates Court (Ireland) Act, 1858, dated the 15th day of July 1859, or in the notice in the Form X appended to the additional general orders dated 10th January 1902. When the prescribed notice is given in this manner, and no objection is filed by the owner of the estate for sale or by the owners of the adjoining lands within the time limited by such notice for filing objections thereto, it shall not be necessary to serve any further notice, but the order for the ratification of such exchange may be made *ex parte*. If, however, an objection to such proposed ratification shall have been filed, it shall be sufficient to serve a notice to dispose of such objection in the same way as in the case of an objection to such notice under the existing General Orders of the Land Judge's Court.

On whom notice is to be served.

2. Such notice when settled shall be signed by the proper officer and shall be served, not less than fourteen clear days before the day upon which the application is to come before the Judge, upon such of the owners of the respective estates affected by the exchange as may not be parties to the application.

Method of service on persons within United Kingdom.

3. If the persons to be served reside within the United Kingdom, service may be made by registered letter if satisfactory proof of residence is given; and, if not, service must be personal unless the Judge permits some other mode of service.

As to persons not within United Kingdom.

4. If the persons to be served do not reside within the United Kingdom, application may be made to the Judge in Chamber for directions as to the mode of service, and the period to elapse between the service and adjudication.

Order. III.

Superior Interests.

Quit or Crown rents.

1. No application for the apportionment of any quit rent, or other perpetual rent payable to the Crown, to which the provisions of Section 61 of the Act of 1903 apply, shall be made to the Land Judge without the leave of the Land Judge.

Apportionment or exclusive charge of quit rent remitted to Judicial Commissioner to be listed on notice.

2. When any question relating to the apportionment or exclusive charge of any quit rent or other perpetual rent payable to the Crown is remitted by the Commissioners of Woods to the Land Judge for determination the Registrar shall fix a day upon which the case shall be listed before the Land Judge for adjudication, and shall give not less than four clear days' notice thereof to all persons appearing to be interested.

Price to be fixed by Land Judge if not agreed to within fourteen days.

3. The redemption price of a superior interest, other than quit or Crown rent, tithe rent-charge payable to the Land Commission or annuities in lieu thereof, and land improvement or drainage charges in favour of the Commissioners of Public Works in Ireland, shall be determined by the Land Judge unless the parties interested agree upon such redemption price within fourteen days from the date of the order for redemption, unless the time is extended by the Judge.

Distribution of purchase money without regard to superior interest not paid by land sold and exclusive charge.

4. An application to have purchase or redemption money distributed without regard to a superior interest or any part thereof, or for an exclusive charge in pursuance of Section 62 of the Act of 1903 shall be made by motion to the Land Judge, and, unless grounded upon a Consent, shall be on notice to the owner or person in receipt of such superior interest, and to the owner or owners of the lands out of which the same is paid or upon which it is proposed to exclusively charge the same: Provided always that the Land Judge may, if he thinks fit, dispense with service upon any person. A copy of the Order when made shall, if applied for, be issued at the expense of the estate to the owners of the superior interest, and the lands out of which the same is paid or upon which the same is exclusively charged.

Undertaking to apply redemption price of superior interest as capital money.

5. When the redemption price of a superior interest, or of an apportioned part thereof, exceeds thirty pounds but does not exceed one hundred pounds, the undertaking to be given by the person in possession or in receipt of the income of the superior interest, or by the trustees to be appointed or approved of by the Land Judge to apply such redemption price as if it were capital money arising under the Settled Land Acts, 1882 to 1890, shall be in writing under his or their hand or hands in Form I. in the Appendix, with such variations as the nature of the case may require.

APPENDIX.

Form I.

Undertaking to apply redemption price of superior interest as if it were capital money arising under the Settled Land Acts, 1882 to 1890.

HIGH COURT OF JUSTICE IN IRELAND.

Chancery Division—Land Judges.

In the Matter of the Estate of

Owner.

Petitioner.

I, *A.B.*, of , the person (now or lately) in possession or receipt of

[*Here describe the superior interest.*]

hereby undertake, in case the Land Judge shall pay to me the redemption price thereof,

or,

We, *C.D.*, of and *E.F.*, of the

[*Here state the capacity in which they are trustees, and whether appointed or approved by the Land Judge.*]

hereby undertake in case the Land Judge shall pay to us the redemption price of

[*Here describe the superior interest.*]

to apply such redemption price as if it were capital money arising under the Settled Land Acts, 1882 to 1890.

Dated this day of , 19 .

Signed in presence of } Signed *A.B.* (or) *C.D.*, and *E.F.*

Dated this 13th day of February 1905.

Ashbourne, *C.*
John Ross.

IRISH LAND COMMISSION.

MEMORANDUM.

Before vouching the percentage under Section 48 of the Land Act of 1903, each Examiner should direct the Solicitor for the Vendor to obtain from the Registrar a Certificate stating whether an Order has been made by the Court as to parties to receive notice of any proposed dealing with the percentage.

By Order,

HUGH POLLOCK, *R.*

DUBLIN, 21*st November* 1905.

MEMORANDUM AS TO PRACTICE.

ABSTRACTS OF TITLE.

IRISH LAND ACT, 1903.

In order to expedite and simplify proceedings under the above Act, the Irish Land Commissioners have decided to permit any Vendor or his Solicitor, who so desires, to lodge a complete verified abstract of title for the combined purpose of showing title to sell and to the purchase money at any time after the lodgment of agreements, or an agreement for sale, in the case of the sale of an estate to persons other than the Land Commission or the Congested Districts Board, and in the case of a sale to the Land Commission or the Congested Districts Board, at any time after the lodgment of the Originating Request.

The abstract, when lodged, shall be referred to an Examiner, who shall issue his rulings thereon in two parts, Part I. being confined to requisitions which should be complied with for the purposes of Section 17 (1) of the said Act; and Part II. comprising directions for searches and such requisitions as may be necessary for the distribution of the purchase money.

By Order,

JOHN H. FRANKS.

24 UPPER MERRION STREET,
DUBLIN, 22*nd November* 1905.

LAND COMMISSION AND LAND JUDGE.

Rules of 11th January 1906.

It is this day ordered, pursuant to the provisions of the 23rd Section of the Land Law (Ireland) Act, 1896, that the following Rule shall from and after this date and until further order, take effect and be in force in the Land Commission and Land Judge's Court respectively.

1. The Rules and Orders dated 26th October 1896, made under the said 23rd Section, shall apply to and be in force in respect of all proceedings under the Land Act of 1903, as if that Act were specifically mentioned in the said Rules.

Dated this 11th day of January 1906.

S. WALKER, *C.*
JOHN ROSS.
R. E. MEREDITH.

DIRECTION AS TO DELIVERY OF DEEDS.

In the case of the sale of an estate, and at any time before the allocation of the purchase money, the Keeper of the Records may deliver on returnable receipt to the Solicitor for the Vendor having carriage of the sale any Deeds, Muniments of Title or other documents (except verified documents) which have been lodged in the box of such estate.

Provided as follows:—

(*a*) The documents must be required for the purpose of the said proceedings and not otherwise, and the Solicitor must so certify in the receipt.

(*b*) The time limited for return must not exceed twenty-eight days.

(*c*) Each document must, before being delivered, be stamped by the Keeper of the Records with the words:—"This instrument relates to proceedings now pending under the Land Purchase Acts."

(*d*) The Keeper of Records may in any case in which he deems it expedient require the Order of an Examiner before delivery.

19*th January* 1906.

(Signed) R. E. MEREDITH.
GERALD FITZGERALD.
S. J. LYNCH.
FREDK. WRENCH.
W. F. BAILEY.
M. FINUCANE.

BY THE LORD LIEUTENANT-GENERAL AND GENERAL GOVERNOR OF IRELAND.

ABERDEEN.

WE, John Campbell, Earl of Aberdeen, Lord Lieutenant-General and General Governor of Ireland, hereby make the following Regulations under Section 23 (8) of the Irish Land Act, 1903, in lieu of the Regulations issued on July 4th, 1905,* which are hereby cancelled.

I.

Priority.

(*a*) The Estates Commissioners shall so regulate their business that advances in respect of estates or holdings proposed to be sold under Sections 1 to 5 of the Act shall be sanctioned, so far as practicable, in the order of priority in which the Agreements to Purchase were lodged in the offices of the Estates Commissioners, and the other duties imposed on Vendors and Tenant-purchasers by law have been discharged.

(*b*) The offers for the purchase of estates proposed to be sold to the Commissioners under Section 6 of the Act shall, so far as is reasonably practicable, be made by the Estates Commissioners in the order of priority according to which the Originating Requests were lodged in their office, and the other duties imposed on Vendors and Tenant-purchasers by law have been discharged.

(*c*) The offers for the purchase of estates proposed to be sold under Section 7 shall, so far as is reasonably practicable, be made in the order of priority according to which the particulars and documents required under Section 7 (1) of the Act and Rule 25 of the Rules of 23rd October 1903, have been furnished by the Land Judge. Provided also, that the Estates Commissioners may, if they think fit, accelerate the sanction of the advance of purchase money of any estate out of the ordinary order of priority for the special reasons to be recorded in writing.

II.

Town or Village Holdings.

The Estates Commissioners may advance for the purchase of town or village holdings, coming within the provisions of the Land

* See Regulations of 4th May 1905, *ante* p. 365.

Purchase Acts, such sums as they shall consider to be secured by the sites of the houses and any land attached thereto.

If application is made for sums exceeding what the Estates Commissioners consider to be secured as aforesaid the Estates Commissioners should, in dealing with such applications, have regard to the following considerations:—

(1) That the primary object of the Land Purchase Acts is the transfer of the fee of agricultural and pastoral land from the landlords to the occupiers.

(2) That the security afforded by buildings alone is insufficient, inasmuch as buildings are liable to deterioration in value and to total destruction by fire or other causes.

III.

Evicted Tenants.

The Estates Commissioners shall make inquiries as to the persons who have lodged applications for advances for the purchase of land and who claim to come within the provisions of Section 2 (1) (*d*) of the Act, and shall prepare lists of such persons with a view to the provision of holdings for such of them as it may be desirable to provide with holdings.

IV.

The Estates Commissioners may approach the owner of an estate from which tenants have been evicted and may propose to purchase from him so much land as they may consider necessary for the purposes of Section 2 (1) (*d*); and may, if the owner so desires, furnish him with preliminary estimates of the prices they are prepared to give for such portion of the estate. They may also furnish him with preliminary estimates of the prices they are prepared to give for the whole estate if he so desires.

V.

The Estates Commissioners shall make such inquiries as they think fit with a view to ascertaining the existence of untenanted land suitable for purchase either as a separate estate or under Sections 6 and 7 of the Act, or for the purposes of Section 8 of the Act, and shall take such steps as they think advisable for the purchase of such land.

VI.

Parcels of Land.

Where a parcel of land is sold under Section 2 to a person not being in possession of any other land, the parcel should, so far as reasonably practicable, be of sufficient size and fertility to enable the purchaser, if he manages and cultivates it properly, to pay the Purchase Annuity and other outgoings and to maintain himself and his family on its produce, not only at the time of the sale, but, so far as can be reasonably anticipated, in the future.

When a parcel of land is so sold to a person being in possession of other land this regulation shall apply with the substitution, for the parcel sold under Section 2, of the total amount of land in his possession after he has been put into possession of the parcel sold under Section 2.

A parcel of land shall not be sold to any person of whose farming experience, habits of industry, and competence to work the land as a holding, and purpose so to work it and not to sell or assign it, the Estates Commissioners are not reasonably satisfied.

VII.

Improvement Loans and Grants.

Where an application under Section 12 for a grant, or an advance for an improvement is made to the Estates Commissioners, they shall cause an inquiry to be made as to the propriety of granting the application, and having considered the results of such inquiry, they may, if they think fit, refer the application to the Commissioners of Public Works or deal with the matter themselves under the above-mentioned Section.

VIII.

Where differences exist between landlord and tenant in connection with the terms or conditions of the purchase and sale of an estate, and the Estates Commissioners have reason to believe that their action as conciliators would be beneficial to both parties and would lead to an amicable settlement of the dispute, they may approach the parties, with a view to such a settlement and to facilitating the sale and purchase of the estate.

Given at His Majesty's Castle of Dublin,
this 13th day of February 1906.

By His Excellency's Command,

A. P. MacDONNELL.

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